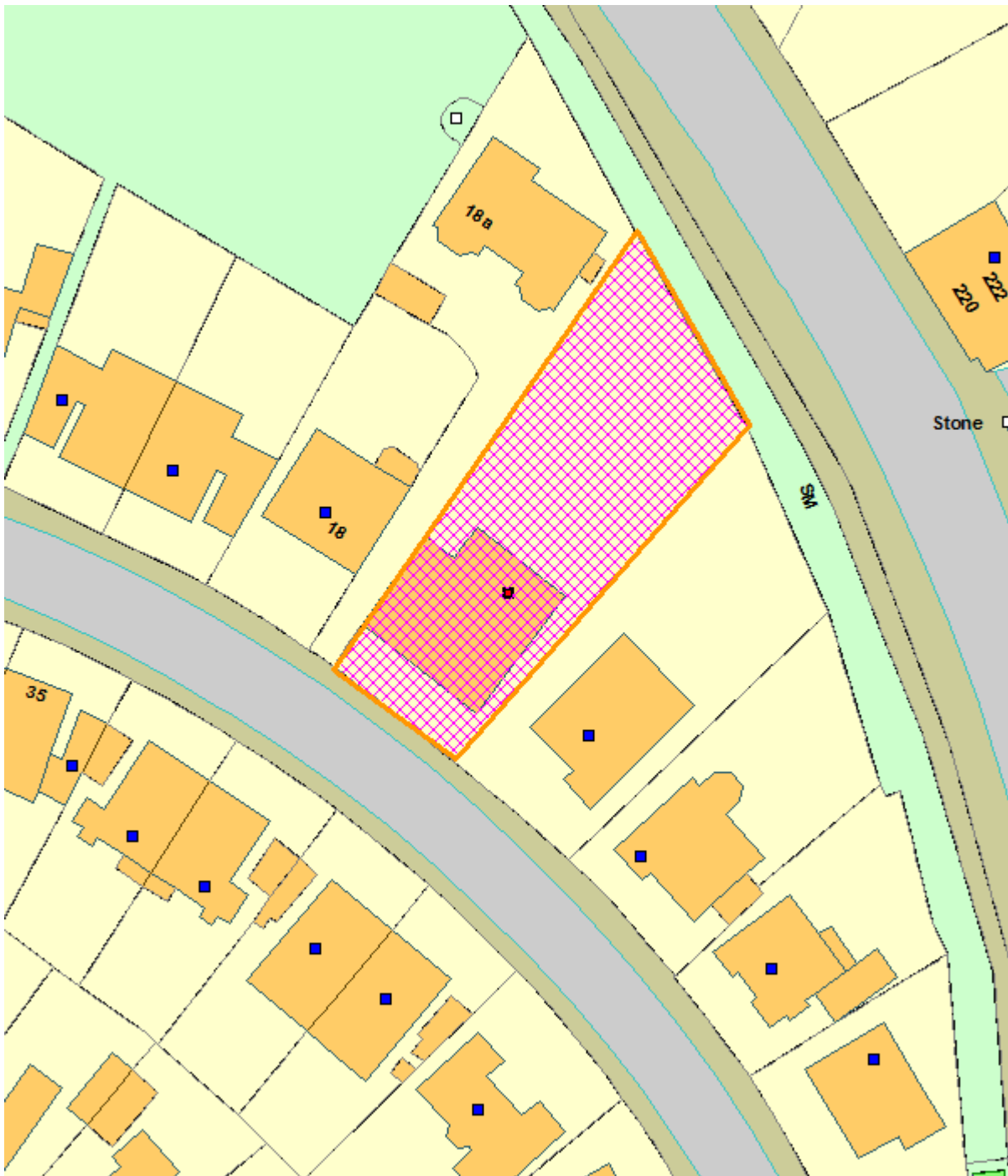


PLANNING APPLICATION OFFICERS REPORT



Application Number	18/00508/FUL	Item	02
Date Valid	25.04.2018	Ward	PEVERELL
Site Address	16 Torland Road Plymouth PL3 5TS		
Proposal	Outbuilding with balcony to existing treehouse above (part retrospective)		
Applicant	Mr Michael Michaelides		
Application Type	Full Application		
Target Date	20.06.2018	Committee Date	28.06.2018
Extended Target Date	N/A		
Decision Category	Councillor referral		
Case Officer	Mr Chris Cummings		
Recommendation	Grant Conditionally		



This application has been referred to Planning Committee by Councillor Ball

I. Description of Site

16 Torland Road is a detached dwellinghouse in the Peverell ward of Plymouth. The site slopes down towards the rear (north) boundary, which is in an elevated position above Mannamead Road.

The application relates to an existing treehouse that is positioned at the rear of the site.

2. Proposal Description

Part retrospective application for outbuilding at ground level, with a balcony on part of the roof accessed from the existing treehouse.

The balcony and supports underneath have been constructed, with the outbuilding not yet fully erected.

The outbuilding is positioned beneath the tree and has a height of 3.9 metres, width of 5.55 metres and depth of 2.8 metres with a flat roof. It will be clad in timber weatherboarding to match the existing tree house and is for storage use ancillary to the dwellinghouse.

The balcony will be positioned on a small part of the outbuilding flat roof to the rear of the existing tree house. It will have a length of 0.85 metres and a width of 1.75 metres, surrounded by a timber balustrade with a height of 1.1 metres.

3. Pre-application Enquiry

None

4. Relevant Planning History

84/02879/FUL - Erection of private motor garage - Granted conditionally

92/01474/FUL - Retention of tree house - Granted conditionally

95/00733/FUL - Retention of tree house - Granted conditionally

97/01385/FUL - Retention of tree house - Granted conditionally

11/00905/TPO - Cedar overhanging 14 Torland Road, crown lift to similar height of crown in No 16 - Granted conditionally

16/00881/TPO - Cedar - Fell - Granted conditionally

17/00391/ENF - Alleged unauthorised works to tree house - Pending outcome of this application.

5. Consultation Responses

Tree Officer - Confirmed that cedar tree (in which the tree house is built) was granted permission to be felled in 2016 following loss of several large limbs. The tree is effectively dead as once all live branches are removed the species does not regenerate.

6. Representations

Three letters of representation have been received objecting to the application on the following grounds:

- Loss of privacy from balcony to neighbouring properties
- Siting and size of outbuilding is excessive and overbearing and creates adverse effect on visual amenity of neighbouring properties
- Unclear if outbuilding will be separate from existing treehouse
- Unclear if outbuilding will be supporting the treehouse
- Work has already been undertaken prior to applying for planning permission.
- Previous applications have not approved a balcony and had restrictions on the front door and obscure windows on the side elevations.
- Unclear if window will be placed in outbuilding as application mentions this, but plans do not show.
- Other applications for sheds at properties backing onto Mannamead Road have been refused.
- Height and scale of outbuilding would block light into properties on Mannamead Road.
- Concern over additions to a protected tree.
- Concern over weight of new structure (the weight of the new structure is not a material planning consideration).

7. 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.

The development plan comprises of the Local Development Framework Core Strategy (Adopted April 2007).

The Plymouth and South West Devon Joint Local Plan (the JLP) will replace the Core Strategy and other Plymouth Development Plan Documents as the statutory development plan for Plymouth once it is formally adopted.

Annex I of the National Planning Policy Framework (the Framework) provides guidance on determining the weight in relation to existing and emerging development plan policies.

- For Plymouth's current development plan documents, due weight should be given to relevant policies according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

- For the JLP which is an emerging development plan, the weight is to be determined by the stage of its preparation, the extent to which there are unresolved objections, and its degree of consistency with the Framework.

The JLP is at an advanced stage of preparation having now been submitted to the Planning Inspectorate for Examination, pursuant to Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations. It is considered to be a sound plan, consistent with the policies of the Framework, and is based on up to date evidence. It is therefore considered that the JLP's policies have the potential to carry significant weight within the planning decision, particularly if there are no substantive unresolved objections. The precise weight will need to be determined on a case by case basis, having regard to all of the material considerations as well as the nature and extent of any unresolved objections on the relevant plan policies.

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

- Development Guidelines Supplementary Planning Document

In this case the following policies are relevant to the consideration of these proposals:

The letters of support/objections received in respect of these policies, as a result of consultations on the Plymouth and South West Devon Joint Local Plan, and the weight it is considered can be attached to them are set out as follows:

DEV1 Received 3 letters of support and 9 raising partial objections. Objections include suggestion that policy should only apply where significant adverse impact has been identified. In this case it is considered that moderately significant weight can be attached to the policy.

DEV2 Received 2 letters of support and 5 letters making general comments on the proposal, but not making significant objections, therefore in this case it is considered that significant weight can be attached to the policy

DEV20 (Place shaping and the quality of the built environment) received 11 letters generally support 1 questioning the Building for Life Criteria as a barrier to development. In this case it is considered that moderately significant weight can be attached to the policy.

8. Analysis

1. This application has been considered in the context of the development plan, the submitted Joint Local Plan, the Framework and other material policy documents as set out in Section 7.

2. The Policies of most relevance to the consideration of this application from the Core Strategy are CS02 (Design), CS03 (Historic Environment) and CS34 (Planning Application Considerations)

3. The policies of most relevance to the consideration of this application from the Plymouth and South West Devon Joint Local Plan are DEVI (Protecting Health and Amenity), DEV2 (Air water, noise, soil and land) and DEV20 (Place shaping and the quality of the built environment).

Background of existing tree house and balcony

4. The existing tree house was first granted retrospective planning permission at the site in 1992 (92/01474/FUL) for a temporary period of three years. Consents permitting the retention of the tree house for temporary periods were then approved in 1995 (95/00733/FUL) and 1997 (97/01385/FUL). The 1997 approval (97/01385/FUL) contained a condition that the tree house should be removed by 1st January 2001 unless a further planning permission was subsequently granted for its retention. Following that permission no further applications were submitted to the Council for the retention of the tree house past January 2001.

5. The time limit in which planning compliance action can be taken against a development of this nature is 4 years. However no planning compliance action was taken during this timeframe against the unauthorised retention of the tree house. As such, the tree house itself is outside of the time in which planning compliance action can be taken and its retention is now considered to be lawful.

6. Letters of Representation were received raising concerns regarding the condition of the tree that the existing tree house is sited on. The tree was protected by Tree Preservation Order 272, but was granted permission to be felled under application 16/00881/TPO.

7. The tree house is set on the remains of the tree trunk and has supporting timbers going to ground level. As stated above, the tree house is now considered a lawful development and is not being assessed as part of this application. The aspects to be considered with this application are therefore the outbuilding and balcony.

Outbuilding

8. The proposed outbuilding will be at the rear of the garden, located to the rear of the existing treehouse. It is proposed to have a height of approximately 3.9 metres, with a width of 5.55 metres and a depth of 2.8 metres. There are no windows shown on the submitted plans, with a single door on the north-west elevation allowing access.

9. The outbuilding requires planning permission due to its height, roof design and positioning in relation to a boundary of the property.

Visual Impacts

10. The proposed outbuilding is considered to be of a significant height, however it's positioning and the slope of the site limits the visual harm. It will be set down at the bottom of the sloped garden, stepped down from an existing terraced garden aspect. This sloped garden, combined with the positioning to the rear of the existing treehouse will limit the visibility from nos.14 and 18 Torland Road and from the public highway on Torland Road.

11. To the west no.18a Torland Road will be approximately 18 metres from the side elevation of the outbuilding, with an existing wall along the site boundary that will partially screen the outbuilding view. To the north, the outbuilding will be sited beneath the tree house and although it is in an elevated position it will be primarily screened from Mannamead Road by existing trees.

12. The outbuilding materials are proposed to match that of the existing tree house, of timber weatherboarding. It is recommended that a condition be placed on any approval requiring these materials to match those of the existing tree house and be retained in this manner in the future.

13. Although the outbuilding is of some size, it is not considered to create significant enough visual impact on the existing street scene or character of the area to warrant a refusal. It is therefore considered, on balance, acceptable in line with Policy CS02 of the Core Strategy and Policy DEV20 of the emerging Joint Local Plan.

Neighbour Amenity

14. The outbuilding does not have any windows proposed, with a single door on the north-west elevation. There is not considered to be any significant impact on the privacy of neighbouring properties from this outbuilding, however it is recommended that a condition be added restricting the installation of any window on the south-eastern elevation in the future to protect the privacy of no.14 Torland Road, without the written consent of the Council.

15. A letter of representation raised objections due to potential loss of light to no.220 Mannamead Road. There are existing high trees bordering the application site, and the existing treehouse positioned above the outbuilding. The proposal is therefore not considered to significantly impact on the sunlight to the dwelling on Mannamead Road,

Balcony.

16. The submitted plans make reference to 'reinstate balcony as previously approved', however there is no record of a balcony on any approved plans for the previously approved applications for the tree house and it is unclear if approval was ever granted for it.

17. Photos from Google Street View show that there has previously been a balcony at the site (from at least April 2009). The balcony has been removed recently to allow the outbuilding to be constructed and would require planning permission to be re-installed.

18. The proposed balcony will be positioned on part of the roof of the proposed outbuilding, attached to the rear (north) elevation of the treehouse. It has a depth of 0.85 metres and a width of 1.75 metres. Although the roof of the outbuilding is much larger, the proposed balcony will only be positioned on a small part of this.

Amenity

19. Paragraphs 2.2.26 and 2.2.27 of the Development Guidelines SPD advises that balconies will be assessed against the degree of overlooking and impacts created on neighbouring properties.

20. The treehouse is positioned on the boundary with no.14 Torland Road and the balcony has the potential to impact on the rear garden of the property, which cannot readily be seen from the existing site. A condition was agreed with the applicant on site that, if the application is approved, a screen of a minimum 1.7 meters in height would be installed on the south-east elevation of the balcony to protect the privacy of no.14.

21. To the north of the site the ground drops down considerably to Mannamead Road, where there is a dwelling to the north east that is opposite the site, at a distance of approximately 24 metres from the balcony. There are trees on the north eastern boundary of the application site, however they do not provide adequate screening at this point in time to prevent the rooms being seen from the balcony.

22. Although the balcony position does allow a view of the first floor rooms in no.220 Mannamead Road, a site visit by the Case Officer found that there was significant existing overlooking of no.220 Mannamead Road from the garden of the application site itself, due to the elevated position above Mannamead Road and the sloped garden. It is considered that, on balance, due to the existing overlooking from the application garden, the balcony does not generate a significant increase in the amenity and privacy impacts to no.220.

23. To the north west of the site there is another dwelling, no.18a Torland Road. The windows of this property are already subject to overlooking from the north-west window of the existing treehouse and from the existing application site garden.

24. The window of the treehouse had a planning condition that it should be obscure glazed at all times, however there is no evidence that this was ever implemented and the clear pane would now be considered lawful due to the amount of time it has been in place taking it outside of the timeframe in which planning compliance action can be taken. In a similar view to that of no.220 Mannamead Road, there is already a high level of existing overlooking of no.18a Torland Road from the application site rear garden and treehouse window and officers do not consider that the balcony will significantly increase this.

25. The balcony is therefore considered to comply with Policy CS34 of the Core Strategy and Policies DEVI and DEV2 of the emerging Joint Local Plan.

Visual

26. The balcony will be positioned to the rear of the existing treehouse and will not be visible from Torland Road. It will be visible from Mannamead Road with the level varying depending on the tree coverage. The existing treehouse is a large visual presence on the street scene and it is considered that the addition of the balcony will not create significant additional visual harm to the

street scene or character of the area in line with Policy CS02 of the Core Strategy and Policy DEV20 of the emerging Joint Local Plan.

Other Considerations

27. The roof of the outbuilding is larger than the area proposed for the balcony. To prevent use of the whole of the outbuilding roof as a balcony area it is recommended that a condition be placed on any approval restricting the balcony to the area shown on the approved plans only. This will help protect both neighbour amenity and the visual impact of the balcony in line with Policies CS02 and CS34 of the Core Strategy and Policies DEVI and DEV20 of the emerging Joint Local Plan.

Other Considerations

28. A letter of representation mentioned other applications for sheds at the rear of properties on Mannamead Road. The planning history for the immediate surrounding area was assessed, but no relevant planning applications or decisions were found.

Intentional Unauthorised Development

29. Since August 2015 national planning policy requires consideration to be given as to whether intentional unauthorised development has been carried out. The new policy applies to all relevant planning decisions made by Local Planning Authorities and Planning Inspectors. The policy has been introduced largely as a result of Government concerns about the harm caused by unauthorised developments in the Greenbelt, but applies equally elsewhere.

30. The policy does not indicate exactly how much weight should be afforded to this in relation to the weight to be given to other material planning considerations. Neither does the policy clarify exactly what evidence is required to demonstrate the unauthorised development has been carried out intentionally.

31. It is clearly highly undesirable for any development to take place before planning permission has been properly sought, and obtained, in any circumstances. However, it should be noted that this new policy only applies where unauthorised development has taken place with the full knowledge of the person(s) undertaking the work that it lacks the necessary consent. In reality, given the difficulties in interpreting these points, it is considered that little or no weight can be given to this aspect, unless the Council has clearly indicated to the applicant that unauthorised development is being carried out, and that works have then continued beyond that point, or where there is some other compelling evidence that such work has intentionally been carried out.

32. Neither of these factors appear to apply in this case, and so it is considered that no weight should be afforded to this particular point in the determination of this application.

9. Human Rights

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.

10. Local Finance Considerations

None

11. Planning Obligations

The purpose of planning obligations is to mitigate or compensate for adverse impacts of a development, or to prescribe or secure something that is needed to make the development acceptable in planning terms. Planning obligations can only lawfully constitute a reason for granting planning permission where the three statutory tests of Regulation 122 of the CIL Regulations 2010 are met.

Planning obligations not required due to the nature and size of proposal.

12. Equalities and Diversities

The proposal does not raise any equalities or diversities issues.

13. Conclusions and Reasons for Decision

On balance, due to the existing tree house, overlooking from the existing sloped garden and use of conditions, the proposal is considered visually acceptable and will not significantly impact on the amenity or privacy of neighbouring properties.

Officers have taken account of the NPPF and S38(6) of the Planning and Compulsory Purchase Act 2004 and concluded that the proposal accords with policy and national guidance and is therefore recommended for conditional approval.

14. Recommendation

In respect of the application dated 25.04.2018 it is recommended to Grant Conditionally

15. Conditions / Reasons

The development hereby permitted shall be carried out in accordance with the following approved plans:

1 **CONDITION: APPROVED PLANS**

Site Plan 2018.01.00 - received 21/03/18

Location Plan 2018.01.01 - received 21/03/18

Sketch Proposals 2018.01.04 - received 21/03/18

Reason:

For the avoidance of doubt and in the interests of good planning, in accordance with policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61-66 of the National Planning Policy Framework 2012.

2 **CONDITION: COMMENCE WITHIN 3 YEARS**

The development hereby permitted shall be begun before the expiration of three years beginning from the date of this permission.

Reason:

To comply with Section 51 of the Planning & Compulsory Purchase Act 2004.

3 **CONDITION: ENCLOSURE AND SCREENING**

PRE-USE

Prior to first use of the balcony hereby approved, a 1.7 metre screen shall be installed along the south-west elevation of the balcony, constructed of close-board timber to match the existing treehouse. The screen shall thereafter be retained in perpetuity unless otherwise agreed in writing by the Local Planning Authority.

Reason:

To protect neighbouring properties from overlooking and loss of privacy in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, Policy DEV1 of the emerging Plymouth and South West Devon Joint Local Plan (2014-2034) and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

4 CONDITION: USE OF BALCONY

Areas of the roof of the outbuilding that are not identified as the balcony on the approved plans shall not be accessed at any time apart from for maintenance purposes.

Reason:

To protect neighbouring properties from overlooking and loss of privacy in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, Policy DEV1 of the emerging Plymouth and South West Devon Joint Local Plan (2014-2034) and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

5 CONDITION: OUTBUILDING MATERIALS

The materials to be used in the construction of the external surfaces of outbuilding hereby permitted shall match those of the existing tree house of closeboard timber.

Reason:

To ensure that the materials used are in keeping with the appearance of the tree house in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007, and paragraphs 61 to 66 of the National Planning Policy Framework 2012.

6 CONDITION: OUTBUILDING WINDOW RESTRICTIONS

No windows shall be inserted in the south-east elevation of the outbuilding hereby approved at any time unless agreed in writing by the Local Planning Authority prior to their installation.

Reason:

In order to protect the privacy enjoyed by the occupiers of adjacent dwellings in accordance with Policy CS34 of the Plymouth Local Development Framework Core Strategy (2006-2021) 2007 as permitted by article 4 paragraph 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015.

Informatives

1 INFORMATIVE: (NOT CIL LIABLE) DEVELOPMENT IS NOT LIABLE FOR A COMMUNITY INFRASTRUCTURE LEVY CONTRIBUTION

The Local Planning Authority has assessed that this development, due to its size or nature, is exempt from any liability under the Community Infrastructure Levy Regulations 2010 (as amended).

2 INFORMATIVE: CONDITIONAL APPROVAL NO NEGOTIATION

In accordance with the requirements of Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 and paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way and has imposed planning conditions to enable the grant of planning permission.