



**Application Number:** P/2018/1255

**PLACE and ENVIRONMENT**

Spatial Planning, Torbay Council  
2<sup>nd</sup> Floor, Electric House, Castle Circus  
Torquay TQ1 3DR  
Phone 01803 207801

**GRANT OF PLANNING PERMISSION**

**TOWN AND COUNTRY PLANNING ACT 1990  
TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT  
PROCEDURE)(ENGLAND)ORDER 2015**

**Applicant:**  
Tofay Investments Ltd  
Mrs Sato  
C/O Narracotts Architects Ltd

**Agent:**  
Narracotts Architects  
2 Montpellier Terrace  
Torquay  
TQ1 1BL

In pursuance of its powers under the above-mentioned Act and Orders, Torbay Council as Local Planning Authority hereby PERMIT:

**Change of use of upper floors above existing vacant retail unit to form three new apartments, including formation of new entrance lobby and shop front.**

**at 33 Fore Street Brixham TQ5 8AA**

to accord with the application received 15 December 2018 and the plans and particulars submitted.

This permission is subject to the following standard condition:

The development to which this application relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

**Additional Condition(s)**

P1. The development hereby permitted shall be carried out in complete accordance with the approved plans listed below:

2358 FRA - (Version - B) - Date on plan: 03/05/2019 - Flood Risk Assessment received 03.05.2019

Flood Risk Strategy - Date on plan: 01/07/2018 - Flood Risk Assessment received 03.05.2019

2358 02 - (Version - D(inc elevations&OS)) - Date on plan: 19/04/2019 - Proposed Various received 09.04.2019

Reason: For the avoidance of doubt and to ensure a satisfactory completion of development.

01. Prior to the first occupation of the residential unit as approved, refuse storage shall be installed and retained in perpetuity, in accordance with the plans as submitted.

Reason: In the interests of suitable waste management and in accordance with Policy W1 of the Torbay Local Plan.

02. Prior to the use of the ground floor retail unit as approved, the shop frontage shall be installed and thereafter retained in perpetuity, in accordance with the plans as submitted.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan.

03. Prior to the occupation of the development hereby permitted, details of the colour proposed for the powder coating to the aluminium elements of the shop front shall be submitted to, and approved in writing by, the Local Planning Authority.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan.

04. Prior to the first use of the building the mitigation measures outlined within the submitted and approved Flood Risk Assessment (Received 03.05.2019) for each respective use (the retained retail use and the upper floor residential use), shall be implemented in full. The respective Flood Risk measures shall be maintained in full at all times thereafter unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

### **Informative(s)**

01. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

The proposed development has been tested against the following policies of the Development Plan and other relevant material considerations and in the opinion of the Local Planning Authority the proposed development is not in conflict with these policies:

DE1 - Design  
DE3 - Development Amenity  
SS3 - Presumption in favour of sustainable development  
SS10 - Conservation and Historic Environment  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
ER1 - Flood Risk  
TA3 - Parking requirements  
SDB2 - Brixham town centre, harbour and waterfront  
TC1 - Town Centres

The applicant is advised that the granting of planning permission is a separate matter to that relating to the issue of restrictive covenants that may exist on the land. Such covenants protect private rights and benefits. They have not been a material consideration in the determination of this application. You should make your own enquiries relative to such covenants before proceeding to implement the approved development.

**THIS IS NOT AN APPROVAL UNDER BUILDING REGULATIONS**

**Our Building Control Team will be happy to discuss your proposals to help you establish if Building Regulation Approval is required. Please contact Building Control on 01803 208095 or [building.control@torbay.gov.uk](mailto:building.control@torbay.gov.uk).**



**STEVE PARROCK**  
Executive Director  
On behalf of Torbay Council  
7 May 2019

## NOTES FOR GUIDANCE

### GRANT OF PLANNING PERMISSION

#### TOWN AND COUNTRY PLANNING ACT 1990 TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE)(ENGLAND)ORDER 2015

Your application for Planning permission has been granted. You must adhere to the details of the approved plans and comply with the conditions attached to the decision notice.

This decision is not a decision under the Building Regulations. It may be necessary to apply for Building Regulation approval. If you need further information about this you may telephone the Building Control Team on 01803 208095.

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the Secretary of State under section 78 of the Town and Country Planning Act 1990.

If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, if you want to appeal against your local planning authority's decision on your application, then you must do so within 28 days of the date of this notice.

If an enforcement notice is served relating to the same or substantially the same land and development as in your application and if you want to appeal against your local planning authority's decision on your application, then you must do so within:

- 28 days of the date of service of the enforcement notice or
- 6 months (12 weeks in the case of a householder appeal) of the date of this notice

whichever period expires earlier.

If this is a decision to refuse planning permission for a householder application, if you want to appeal against your local planning authority's decision then you must do so within 12 weeks of the date of this notice.

Otherwise, if you want to appeal against your local planning authority's decision then you must do so within 6 months of the date of this notice.

Appeals must be made using a form which you can get from the Secretary of State at

Temple Quay House  
2 The Square  
Temple Quay  
Bristol  
BS1 6PN

or online at [www.gov.uk/government/organisations/planning-inspectorate](http://www.gov.uk/government/organisations/planning-inspectorate)

The Secretary of State can allow a longer period for giving notice of an appeal, but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by the Secretary of State.

Section 76 of the Town and Country Planning Act 1990 requires that your attention is drawn to the provisions of the Chronically Sick and Disabled Persons Act 1970, the Code of Practice for Access for the Disabled to Buildings (BS 5810:1979) and Design Note 18 "Access for the Disabled to Educational buildings" in relation to buildings which the public will be admitted. Further information about this may be obtained from the Building Control Team on 01803 208095.

This permission does NOT include authority to execute any works within the boundary of the public highway, or in any way affecting the public highway, or the sewers system in the highway without the permission of the Highway Engineer. You may contact the Highways Team on 01803 207671 or the Drainage Team on 01803 207821.

#### **Purchase Notices**

If either the local planning authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that the owner can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (that is, where the land is situated in a National Park, the National Park authority for that Park, or in any other case the district council (or county council which is exercising the functions of a district council in relation to an area for which there is no district council), London borough council or Common Council of the City of London in whose area the land is situated). This notice will require the Council to purchase the owner's interest in the land in accordance with the provisions of Chapter I of Part 6 of the Town and Country Planning Act 1990.