



Friday, 2 August 2019

## PLANNING COMMITTEE

A meeting of **Planning Committee** will be held on

**Monday, 12 August 2019**

commencing at **5.30 pm**

The meeting will be held in the Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ

### **Members of the Committee**

Councillor Pentney (Chairman)

Councillor Barrand

Councillor Hill

Councillor Brown

Councillor Barbara Lewis

Councillor Dart

Councillor Manning

Councillor Dudley

Councillor Jacqueline Thomas

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## **A prosperous and healthy Torbay**

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For information relating to this meeting or to request a copy in another format or language please contact:

**Teresa Buckley, Town Hall, Castle Circus, Torquay, TQ1 3DR  
01803 207087**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

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# **PLANNING COMMITTEE AGENDA**

- 1. Apologies for absence**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
- 2. Minutes** (Pages 4 - 8)  
To confirm as a correct record the Minutes of the meetings of this Committee held on 8 July 2019 and 16 July 2019
- 3. Disclosure of Interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda.  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
- 4. Urgent Items**  
To consider any other items that the Chairman decides are urgent.
- 5. Land North of Shorton Manor, Shorton Road, Paignton (P/2019/0019/PA)** (Pages 9 - 29)  
Construction of single detached dwelling within curtilage of listed building.
- 6. Land North of Shorton Manor, Shorton Road, Paignton (P/2019/0020/LB)** (Pages 30 - 35)  
Construction of single detached dwelling within curtilage of listed building.
- 7. The Anchorage, Headland Road, Torquay (P/2019/0261/VC)** (Pages 36 - 43)  
Application to vary or remove conditions in relation to planning application P/2018/0348: Variation of condition 9 - Balustrade

8. **Land at The Terrace car park, corner of Montpellier Road and The Terrace, Torquay (P/2019/0348/MPA)** (Pages 44 - 79)  
Formation of 120 bedroom hotel and ancillary restaurant and associated works. Partial demolition and reconfiguration of existing car park to provide stairs, lift and ramp
9. **90 - 96 Union Street, Torquay (P/2019/0358)** (Pages 80 - 94)  
Change of use from A1 (shops) to D2 (Cinema) including restaurant
10. **Former Torwood Conservative Club, 28 Parkhill Road, Torquay (P/2019/0423/PA)** (Pages 95 - 106)  
Change of use from conservative club to 3 self-contained dwellings
11. **Former Torwood Conservative Club, 28 Parkhill Road, Torquay (P/2019/0423/LB)** (Pages 107 - 113)  
Change of use from conservative club to 3 self-contained dwellings
12. **Public speaking**  
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
13. **Site visits**  
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 7 May 2019. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



## Minutes of the Planning Committee

**8 July 2019**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Barrand, Brown, Dart, Dudley, Hill, Barbara Lewis, Manning and Jacqueline Thomas

(Also in attendance: Councillors Amil, Brooks, Steve Darling, Foster, Morey and Stockman)

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### **13. Minutes**

The Minutes of the meeting of the Development Management Committee held on 8 April 2019 and the Minutes of the Planning Committee held on 10 June 2019 were confirmed as correct records and signed by the Chairman.

### **14. Former Dairy Crest Depot, Parkfield Road, Torquay (P/2019/0283)**

The Committee considered an application for the demolition of existing buildings and change of use of the land from industrial to provide up to 43 residential dwellings with parking, with detailed access, layout and scale (matters of appearance and landscaping Reserved).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's Website. At the meeting Margaret Forbes-Hamilton addressed the Committee against the application and Tony Horsey addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- a. the receipt of satisfactory detailed drainage solution;
- b. the final drafting of conditions being delegated to the Assistant Director of Planning and Transport, to include those listed within the submitted report;
- c. the completion of a Section 106 Legal Agreement in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document on terms acceptable to Officers to secure deferred obligations relating to affordable housing and the loss of an employment site (as appropriate.); and
- d. the resolution of any new material considerations that may come to light being delegated to the Assistant Director of Planning and Transport.

**15. 213 St Marychurch Road, Torquay (P/2018/0962)**

The Committee considered an application for the demolition of the existing building to form 17 apartments and parking (revised plans received 6/3/19).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's Website. At the meeting Pat Bishop and Alan Griffey addressed the Committee against the application and Tony Brown and Ian Hanford addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Brooks addressed the Committee.

Resolved:

Approved subject to the completion of a Section 106 Agreement to allow for a review of the financial viability of the development and the final drafting of conditions (including those set out in the submitted report) being delegated to the Assistant Director of Planning and Transport.

**16. The Coach House, Steartfield Road, Paignton (P/2019/0249)**

The Committee considered an application for the erection of a detached building comprising two self-contained retirement apartments within the curtilage of The Coach House, Steartfield Road, Paignton.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's Website. At the meeting James O'Dwyer addressed the Committee in support of the application.

Resolved:

Refused for the reasons set out in the submitted report.

(Note: Prior to consideration of this item Councillor Pentney declared a non-pecuniary interest and withdrew from the meeting room where the Vice-Chairman chair the meeting.

Councillor Dudley in the Chair)

**17. Lynwood, Jacks Lane, Torquay (P/2019/0277)**

The Committee considered an application for change of use of from a seven bedroom residential dwelling (use class C3) to a seven bedroom residential care institution (C2).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's Website. At the meeting Sandy Rabone addressed the Committee in support of the application.

Resolved:

Approved with the final drafting of conditions (to include those set out in the submitted report) being delegated to the Assistant Director of Planning and Transport and the resolution of any further material considerations that may come to light.

**18. Land To Rear Of Broadway, Dartmouth Road, Brixham (P/2019/0420)**

The Committee considered an application for a reserved matters application relating to the layout, design, scale ad landscaping of one dwelling within a site that has outline approval for up to ten dwellings.

Resolved:

Approved with the final drafting of conditions (to include those set out in the submitted report) being delegated to the Assistant Director of Planning and Transport and the resolution of any further material considerations that may come to light.

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Chairman



## **Minutes of the Planning Committee**

**16 July 2019**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Barrand, Brooks, Brown, Dart, Dudley, Hill, Manning  
and Jacqueline Thomas

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### **19. Apologies for absence**

In accordance with the wishes of the Conservative Group, the membership of the meeting had been amended for this meeting by including Councillor Anne Brooks instead of Councillor Barbara Lewis.

### **20. Shell Riviera Garage, 376 Torquay Road, Paignton (P/2019/0412/VC)**

The Committee considered an application for removal of condition 1 relating to application P/1997/0872 to enable the petrol filling station to operate 24 hours, 7 days a week.

Prior to the meeting written representations were available on the Council's Website. At the meeting Phil Chappell addressed the Committee against the application.

Resolved:

Approved with the final drafting of conditions (to include those set out in the submitted report) being delegated to the Assistant Director of Planning and Transport and the resolution of any further material considerations that may come to light.

### **21. Harbour Light Restaurant, North Quay, Roundham Road, Paignton (P/2019/0237/PA)**

The Committee considered an application for Internal and external alterations to the application building with the creation of a restaurant across both floors, including a small coffee shop/takeaway to the ground-floor.

Prior to the meeting written representations were available on the Council's Website.

Resolved:

Approved with the final drafting of conditions (to include those set out in the submitted report and the submission of a satisfactory management plan dealing with deliveries to the restaurant) being delegated to the Assistant Director of Planning and Transport

and the resolution of any further material considerations that may come to light plus an informative in respect of the two plaques on the exterior of the application building being retained.

**22. Harbour Light Restaurant, North Quay, Roundham Road, Paignton  
(P/2019/0238/LB)**

The Committee considered an application for and application for listed building consent concerning works affecting the fabric of the building, and complements the associated application for planning permission.

Prior to the meeting written representations were available on the Council's Website.

Resolved:

That Listed Building Consent is granted with the final drafting of conditions (to include those set out in the submitted report) being delegated to the Assistant Director of Planning and Transport and the resolution of any further material considerations that may come to light.

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Chairman

# Agenda Item 5



Application Site Address	Land North of Shorton Manor Shorton Road Paignton TQ3 1RG
Proposal	Construction of single detached dwelling within curtilage of listed building.
Application Number	P/2019/0019
Applicant	Mr & Mrs Williams
Agent	Mr Nathan Paull - Narracotts Architects
Date Application Valid	21/01/2019
Decision Due date	18/03/2019
Extension of Time Date	16/08/2019
Recommendation	That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due to the number of objections that have been received.
Planning Case Officer	Emily Elliott

**Location Plan:**



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## **Site Details**

The site comprises a parcel of land within the curtilage of a Grade II Listed Building known as Shorton Manor. The site area is 1,700 square metres. The site lies adjacent to the remainder of Shorton Manor, Shorton Manor Cottage and No.67 Shorton Road. The site currently has no independent vehicular or pedestrian access. The site levels vary significantly, with ground levels being around 50m AOD in the north-east corner, which falls to around 40m AOD in the far southern edge of the site. The site is within the Shorton Conservation Area and is subject to an Area Tree Protection Order (1974.10 Area 1).

## **Description of Development**

The proposal seeks to form a four bedroom dwelling across three storeys. The proposed dwelling would include a multi-functional space, cellar, water closet and storage to the lower ground floor; four bedrooms all of which include en-suite bathrooms, a gym and a spa/wet room to the ground floor; and a kitchen/living space, utility, water closet, snug and study to the lower first floor. The footprint of the proposed dwelling is approximately 250 square metres, leaving ample curtilage for outdoor amenity space.

The proposed dwelling would be accessed through the eastern boundary from Shorton Road. The proposal includes two covered parking spaces and a turning space, with an electric charging point in the car port and bicycle storage for two bicycles underneath the car port. The proposed pedestrian access from the parking area to the dwelling would be via a level link bridge.

The materials for the proposed dwelling would comprise the following: the walls are proposed to be constructed of natural timber vertical cladding, natural stone plinth, natural stone cladding and zinc standing seam vertical panels to the entrance pod and balcony fascias; the roof is proposed to be natural sedum green roof and a zinc standing seam to the entrance pod; the windows, rooflights and sliding doors are proposed to be slim profile, dark grey powder coated aluminium double-glazed units; the balustrading is proposed to be frameless glass; the rainwater goods are proposed to be hidden gutters to the roofs; and the link bridge is proposed to be galvanised steel supporting frame and columns with hit and miss infill timber balustrade with railway sleepers and a chunky timber footway.

## **Pre-Application Enquiry**

DE/2017/0445: Formation of dwelling.

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

## Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Paignton Neighbourhood Plan 2012-2030

## Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## **Relevant Planning History**

P/2019/0020/LBC: Construction of single detached dwelling within curtilage of listed building. Pending Consideration.

P/1992/0380: Erection of One Detached House And Garage (In Outline). Refused 07/05/1992.

## **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. Eight neighbour notification letters were sent to those neighbours which the development could affect. 13 letters of objection and 3 letters of support have been received.

A summary of the concerns raised in objection include:

- Not in keeping with local area
- Noise
- Privacy/overlooking
- Residential amenity
- Sets a precedent
- Traffic and access
- Trees and wildlife
- Overdevelopment
- Impact on local area
- It's shown in the local plan
- Impact on conservation area
- Impact on listed building

Comments raised in support include:

- It provides houses
- Impact on local area
- Provides/retains jobs

## **Summary of Consultation Responses**

### **Torbay Council Interim Heritage Advisor:**

*My primary concern with regard to this proposal was the impact upon the setting of Shorton Manor which is a listed building. Whilst the proposed dwelling is located to the rear of the manor and key views where the manor and proposed dwelling are restricted I originally highlighted that the scale of the building would be likely to have an adverse impact upon the setting although this would not in my view amount to significant harm. The revised scheme has responded to my concerns by making a number of revisions which I view as being positive in terms of reducing the impact. In conversation with the agent I highlighted that the landscaping of the site and the boundary with the manor needed to be reinforced. I am pleased to note that the revisions have included a suitable landscaping plan.*

*Subject to the conditioning of the details of materials and the implementation of the landscaping plan I consider that there would be no resultant harm to the setting of the heritage asset which will still be read as a small manor house contained within a suitable grounds befitting of its status (albeit now part of the urban area).*

### **County Archaeologist:**

*The revisions do not alter the potential impact on below ground archaeology relating to the early post-medieval Listed Shorton Manor. I therefore recommend that this revised application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.*

*If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with Policy SS10 of the Torbay Local Plan 2012-2030 and paragraph 199 of the National Planning Policy Framework (2018), that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:*

*'No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the District Planning Authority.'*

*Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan (2012-2030) and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'*

*This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.*

**Historic England:**

*We do not wish to offer any comments but would refer you back to our letter setting out relevant guidance that will need to be considered, that being the Historic Environment Good Practise Advice Note 3: The Setting of Heritage Asset, which should help to inform your decision making. We would also suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.*

**Torbay Council Senior Tree and Landscape Officer:**

*My comments are based upon review of the following supporting documents/ plans:*

- AIA-SHM-19a

1. *The site is subject to an Area TPO (1974.10 Area 1) and also within a Conservation Area (Shorton) – both the TPO and Conservation area afford statutory protection to the trees on site.*
2. *The submitted AIA identifies all the trees on site classifying them according to the latest revision of BS5837. The arboricultural assessment of the trees is considered reasonable.*
3. *The trees around the periphery of the site, particularly those along Shorton Road, have significant amenity value. The internal trees have less significance in the wider landscape but nonetheless are categorised correctly.*
4. *The proposal will necessitate the removal of a number of trees from the Shorton Road hedge bank. Two of the trees to be removed are shown as low quality, with the other trees 'U' category ('U' is reserved for trees that are in such a poor condition that they cannot be retained). The erosion of trees from this bank is a concern, however the offset is the Elms within the site will become readily visible once the hedge bank trees are removed. The tree have been assessed correctly. The trees to be removed are T8, T9, T10 and T11.*
5. *Due to the loss of the trees it is proposed to reduce the two Oaks T7 and T12 due to potential root loss as a result of the driveway to the site. The reduction works will vary depending on the level of root severance and is addressed in the report. Oaks are noted for being able to tolerate, and respond to, pruning works.*
6. *Two low quality trees to the west of the site will be removed.*
7. *The raised car parking and walkway plans are provided showing the location for the piles which will be installed by hand or by small machinery, where machinery*

- on site is required temporary ground protection will be required and is shown within the report.*
8. *Tree protection and ground protection are shown on location plans.*
  9. *Minor pruning works to some trees may be necessary to facilitate development.*
  10. *The shading of the site, leaf deposition and future pressure to fell/prune trees is addressed within the report.*
  11. *The site has had inputs from three tree officers including the incumbent offering advice and further justification. The AIA seeks to address the various questions raised by the tree officers. Sufficient consideration has been given to all the appropriate arboricultural aspects with justification and methods given for the development to be constructed without undue pressure on the trees. Where further input is required it is noted and agreement with Torbay Council should be undertaken prior to commencement. The landscaping will offset the tree loss and provide long term succession tree cover in the area. The level of intensity on the site is at the commencement and towards the end of the end of the build – the frequency of site visits is key at these points and is reflected in the weekly visits as indicated within the report.*

***Recommendation***

*That the scheme be suitable for approval on arboricultural merit subject to conditions.*

***Note***

*Should any other part of the development conflict with the above, causing increased levels of pressure or damage to the trees then the proposal will need to re-assessed.*

**Torbay Council Highways Engineer:**

*No objections. The proposed access onto Shorton Road would need to be designed to have a visibility splay of 43m x 2.4m x 43m, this is the requirement for a 30mph speed limit road on to an adopted highway.*

*There should be an electrical charging facility and cycle storage for 2 cycles.*

*If the Application is granted, a vehicle crossover would be required under licence of the Highway Authority, constructed by a contractor with the correct accreditation.*

*To prevent runoff water entering the Highway, a drain or dished channel to a soakaway before entering the Highway would be required.*

*Loose gravel must not be taken on to the Highway.*

**Drainage Engineer:**

*The information does confirm that there is a channel which will convey surface water flows. If the development is built with this channel at a constant fall through the site this will address the surface water flood risk.*

## **Key Issues/Material Considerations**

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Heritage Assets
4. Impact on Residential Amenity
5. Impact on Highway Safety
6. Ecology and Biodiversity
7. Flood Risk and Drainage

## **Planning Officer Assessment**

### **1. Principle of Development**

The proposal is for the erection of a dwelling.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed. Letters of support have indicated that the proposed development will provide housing. The proposal would therefore comply with Policy H1 of the Local Plan.

### **2. Impact on Visual Amenity**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The proposal seeks to form a four bedroom dwelling across three storeys. The footprint of the proposed dwelling is approximately 250 square metres, leaving ample curtilage for outdoor amenity space. The proposed dwelling is proposed to have a new vehicular access from the east of the site onto Shorton Road. The proposal includes two covered parking spaces and a turning space, with an electric charging point in the car port and bicycle storage for two bicycles underneath the car port. The proposed access from the parking to the dwelling is via a level link bridge.

Objectors have raised concerns that the proposal is a form of overdevelopment; it is not in keeping with the local area; it sets a precedent; and it would have a negative impact on the local area. Whilst supporters have stated that the proposal would have a positive impact on the local area.

It is considered that given the site area of some 1,700 square metres and the footprint of the dwelling being approximately 250 square metres that the site can easily accommodate the proposal, and there would not be an overdevelopment of the site. It is also noted that the local area has a mixed character and pattern of development, although it is generally characterised by detached dwellings set back from the public highway, and the proposal would be in keeping with this. The established architecture is varied and mixed in terms of design, external finishes and roof types. Therefore, it is considered that the design, size and scale of the proposed dwelling is acceptable.

The proposed dwelling has been designed in such a way that it lends itself to the topography of the land producing three distinct storeys – lower ground, ground, and lower first floor levels. Due to the siting of the dwelling it will be well screened from Shorton.

The application is supported by a detailed landscaping scheme. The landscaping scheme also provides details of the boundary treatments, indicating the existing tree and hedgerows to be retained and the siting of proposed trees to be planted, the erection of a 2 metre high close boarded timber fence and the implementation of a native species hedge. Both the Council's Interim Heritage Advisor and Senior Tree and Landscape Officer commend the scheme and consider it will mitigate any potential harm to the setting of Shorton Manor, as well as offsetting the tree loss and providing long term succession tree cover in the area. The landscaping scheme is therefore recommended as a planning condition should planning permission be granted, along with conditions to secure details of cladding materials, boundary treatment, refuse and cycle storage.

Given the proposal's siting, scale, and visual appearance, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or streetscene in accordance with the NPPF, Policy DE1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

### **3. Impact on Heritage Assets**

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 of the Local Plan states that development proposals should have special regard to the desirability of preserving any listed

building and its setting, or any features of special architectural or historic interest which it possesses.

The proposal is for the creation of a new dwelling within the curtilage of Shorton Manor. Shorton Manor is a Grade II Listed Building, and is a late 16<sup>th</sup> Century or earlier origin house that has been subject to a number of alterations and renovations. The site is also located within the Shorton Conservation Area. Objectors have raised concerns with regards to the impact the proposed dwelling would have upon Shorton Conservation Area and Shorton Manor. The proposal also includes the partial removal of the original boundary wall associated with Shorton Manor to create a vehicular access from Shorton Road.

The County Archaeologist has stated that the revised plans do not alter the potential impact on below ground archaeology relating to the early post-medieval Listed Shorton Manor. The Archaeologist has recommended a pre-commencement condition for the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets and archaeological interest, to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits that may result from the construction process.

The Council's Interim Heritage Advisor has provided a number of consultation responses with regard to this application due to a number of revisions of the scheme, with the initial concern being the impact upon the setting of Shorton Manor. The advisor has stated that whilst the proposed dwelling is located to the rear of Shorton Manor and key views where the manor and proposed dwelling are restricted, the proposal has been revised significantly to reduce the impact of the proposed dwelling on Shorton Manor, which can be achieved through securing a suitable landscaping scheme of the site and the boundary with the Shorton Manor to be reinforced.

The Council's Interim Heritage Advisor has recommended conditioning details of materials and landscaping and concludes that on balance the proposed dwelling has no resultant harm to the setting of the heritage asset which will still be read as a small manor house contained within a suitable grounds befitting of its status, albeit now part of the urban area.

It is considered that the setting and character of the Grade II listed building will therefore be preserved. Should planning permission be granted, planning conditions should be employed for a written scheme of investigation, to secure details of the proposed materials, and landscaping, to ensure that the proposed dwelling conserves the Grade II listed building, the Shorton Conservation Area and to ensure that the proposal complies with the requirements of the Planning (Listed Building & Conservation Area) Act 1990. It is therefore considered that the proposal would not result in harm to the heritage assets and is considered to accord with Policies HE1

and SS10 of the Local Plan and the guidance contained within the NPPF.

#### **4. Impact on Residential Amenity**

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 55 square metres for new dwellings.

Internal floor standards are set out from the DCLG technical housing standards document. This states the minimum internal floor space which should be provided and gives guidance on the minimum floor area. The minimum internal floor spaces set out by this guidance and reflected in Policy DE3 shows that a minimum floor space of 130 square metres is required for a four bedroom three storey dwelling. The proposed dwelling has an internal floor space of approximately 422 square metres, which well exceeds the minimum standards. The proposed dwelling includes three terraces for the kitchen/living space, bedroom 2 and bedroom 3, alongside a balcony to serve the master bedroom, a further terraced area to the south of the dwelling and a raised level decked/patio area to the north of the dwelling, and a generous curtilage providing outdoor amenity space. Given the site's 1,700 square metre area, the proposal complies with Policy DE3 of the Local Plan.

Each of the habitable rooms proposed within the dwelling are served by sufficient window openings to allow for sufficient outlook and light and as such is considered to offer a good standard of internal amenity for future occupiers.

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Objectors have raised concerns in terms of noise, privacy/overlooking and residential amenity. The proposed dwelling would be located approximately 21 metres from Shorton Manor; approximately 13.5 metres from Shorton Manor Cottage; approximately 13 metres from No.67 Shorton Road; and approximately 33 metres from No.55 Dolphin Crescent. The distances between the proposed dwelling and Shorton Manor and No.55 Dolphin Crescent are considered acceptable and would not have a detrimental impact upon the occupiers of these dwellings given the substantive distances.

The distance between the proposed dwelling and No.67 Shorton Manor is considered to be acceptable given the significant differences in the topography of the land. The north-east elevation facing the side elevation of No.67 Shorton manor includes windows on all three levels to serve the stairwell, along with two high level slot windows on the lower first floor serving the utility and snug and a patio doors serving the kitchen/living space. The proposal also includes a raised deck/patio area which will be accessed from the patio doors. A planning condition is recommended to secure the boundary treatment of the site, given that the proposed landscaping scheme does not

indicate the boundary treatment on the edge of the site between the proposal and No.67 Shorton Manor, this will mitigate any potential impact on the residential amenity of the occupiers of No.67 Shorton Manor.

The proposed dwelling includes a number of terraces and balconies to the southern elevation which face the rear of Shorton Manor and Shorton Manor Cottage. It is considered when taking into account the proposed boundary treatment and the openings on the rear of both existing dwellings, that the proposed dwelling would not have an unacceptable impact upon the residential amenity of the occupiers of either existing dwelling. The dwellings sited on the opposite side of Shorton Road to the proposed dwelling are some 40 metres away, this is considered to be an acceptable distance and given the differing land levels the proposed dwelling would not have a detrimental impact upon the occupiers of those dwellings.

A construction method statement will be recommended as a condition to ensure that the construction works are undertaken in a manner that is not injurious to local amenity, this will mitigate any concerns raised regarding noise.

Subject to the use of planning conditions, given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

## **5. Impact on Highway Safety**

Policy DE3 Development Amenity of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 Development Access of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 Parking Requirements of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy PNP1(d) of the Paignton Neighbourhood Plan states that new residential development should aim to achieve where appropriate and subject to viability space for solid waste storage within the curtilage and purpose designed cycle parking space that is covered, safe and convenient.

Objectors have raised concerns regarding traffic and access in relation to the proposed development. The Council's Highways Engineer raises no objections to the proposed scheme, given that the proposed access onto Shorton Road demonstrates a visibility splay of 43 metres x 2.4 metres x 43 metres, which is the requirement for a 30mph speed limit road on to an adopted highway. The proposed layout indicates an electrical charging facility contained within the covered carport. The bicycle storage is

indicated to be sited underneath the carport, the details of which are not given but shall be included as a planning condition should approval be given. The submitted information does not indicate where the refuse storage shall be provided, given the generous curtilage for the proposed development, a planning condition to secure the refuse storage is considered sufficient.

The proposal provides an adequate off-street parking provision for two vehicles. The parking space size requirements are set out in Policy TA3 and Appendix F of the Local Plan with off-street parking spaces not abutting the public highway requiring 2.4 metres by 4.8 metres, the proposed parking area measures some 6 metres by 6 metres. The proposal would therefore comply with Policy TA3 and Appendix F of the Local Plan.

Conditions are recommended to secure the bicycle storage, refuse storage and the implementation of the proposed parking and manoeuvring provision. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway. Subject to the aforementioned planning conditions, it is considered that the proposed development complies with Policies TA1, TA2 and TA3 of the Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

## **6. Ecology and Biodiversity**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Objectors have raised concerns regarding wildlife. The application is supported by an Ecological Impact Assessment. The report states that the site is not located within the South Hams SAC Greater Horseshoe Bat Zone and that there are no potential building roosts on site, therefore no further specialist survey or assessment is required. Furthermore, the report states that the site is unsuitable nesting or wintering habitat for cirl bunting and the proposed development will not affect the species or its habitat, therefore no further survey or assessment is required.

The report states that the site has the potential to support common species of reptile, the most likely species being slow worms, which are likely to be present at a low population level on site due to the predominance of dense bramble scrub and tree shading. The site also has the potential to support nesting by various common garden and woodland bird species. No evidence was found of badgers on site. The trees and adjoining scrub are suitable habitats for hazel dormouse, however the survey failed to find evidence of the species, therefore no further survey for the species was undertaken. Several trees on the eastern hedge bank have potential bat roost features. The site is suitable for foraging and commuting bats, however due to the relative isolation and surrounding urbanisation the species diversity is likely to be limited. The site is situated within a great crested newt 5km zone, there is a small

garden pond immediately to the south of Shorton Manor which was assessed, however its suitability is classified as ‘poor’ for the great crested newt.

The Ecological Impact Assessment provides ‘Mitigation and Habitat Compensation’ which includes a number of recommendations to mitigate against the low level ecological impacts on features of mostly low ecological importance, this is recommended as a planning condition if minded to approve the proposed scheme. Subject to the proposed planning condition, the proposed development is considered acceptable with regard to Policy NC1 of the Local Plan.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The site is subject to an Area TPO (1974.10 Area 1) and also within Shorton Conservation Area, both the TPO and Conservation Area afford statutory protection to the trees on site. Objectors have raised concerns with regards to the protected trees on site. The application is supported by an Arboricultural Impact Assessment (AIA) which identified all trees on site classifying them according to the latest revision of BS5837. The Council’s Senior Tree and Landscape Officer has stated that the arboricultural assessment of the trees is considered reasonable, with the trees around the periphery of the site, particularly those along Shorton Road, having significant amenity value, with the internal trees having less significance in the wider landscape but nonetheless are categorised correctly.

The proposed development will necessitate the removal of a number of trees from the Shorton Road hedge bank. The AIA also indicates that two low quality trees to the west of the site will also be removed and tree and ground protection are indicated on the submitted location plans.

Minor pruning works to some trees may be necessary to facilitate the proposed development. The shading of the site, leaf deposition and future pressure to fell/prune trees is addressed within the submitted AIA.

The Council’s Senior Tree and Landscape Officer has concluded that the scheme is suitable for approval on arboricultural merit subject to the imposition of planning conditions. The Officer has also caveated that should any other part of the proposed development conflict with the submitted AIA and advice given, causing increase levels of pressure or damage to the trees then the proposal will need to re-assessed. The proposed development is considered in accordance with Policy C4 of the Local Plan.

## **7. Flood Risk and Drainage**

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) Surface Water of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The site is located within the Critical Drainage Area and an area of surface water flooding. The application is accompanied by a Flood Risk Assessment. Due to initial comments received from the Council's Drainage Engineer, the applicant has submitted further information to address the concerns raised with regards to the surface water flood risk. The Engineer is satisfied that the additional information provided does confirm that there is a channel which will convey surface water flows. If the development is built with this channel at a constant fall through the site this will address the surface water flood risk.

A condition will be imposed to secure acceptable surface water drainage arrangements and, subject to its use, the proposal will be in accordance with Policy ER1 of the Local Plan.

## **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposal will include bicycle storage and an electric charging point for private motor vehicles, and the proposed development is in a sustainable location inasmuch as it would be located on land that is currently undeveloped within the existing urban area.

## **Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected

characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

### **Conclusions and Reasons for Decision**

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area, heritage assets, or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, flood risk, and ecological constraints. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

### **Conditions or Refusal reasons**

#### **Written Scheme of Investigation**

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Adopted Torbay Local Plan 2012-2030 and Paragraph 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

**Justification:** It is necessary to use a pre-commencement condition as archaeological material can be damaged during the construction process.

## **Materials**

No development above damp-proof course shall take place until details of the proposed cladding materials (walls and roof) and openings have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

**Reason:** In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

**Reason:** To ensure an acceptable form of development in the interests of the character and appearance of Shorton Manor, Shorton Conservation Area and the streetscene in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

## **Bicycle Storage**

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

**Reason:** To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 Development Access and TA3 Parking Requirements of the Adopted Torbay Local Plan 2012-2030.

## **Refuse Storage**

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

**Reason:** In interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

## **Ecological Impact Assessment**

The development shall proceed, and shall be retained thereafter, in full accordance with the 'Mitigation and Habitat Compensation' detailed on pages 7-8 of the Ecological Impact Assessment (plan reference 'P2019-0019-1' received 4<sup>th</sup> January 2019) hereby approved.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

### **Parking and Manoeuvring Provision**

The dwelling hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the plan referenced "Proposed Survey Drawing" (plan reference "1223 0704 P2 (Driveway & Car Port" received 8<sup>th</sup> July 2019) have been provided. These elements shall thereafter be retained for the use of the associated dwelling for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

### **Construction Method Statement**

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: This information is required prior to commencement to safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

## **Landscaping**

All planting, seeding or turfing comprised in the approved landscaping details (plan reference 611-01A received 28<sup>th</sup> May 2019), shall be carried out in the first available planting and seeding season following the first occupation of the dwelling. 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 a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies C4, DE1, HE1 and SS10 of the Torbay Local Plan 2012-2030.

## **Boundary Treatment**

Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policies C4, DE1, DE3, HE1 and SS10 of the Torbay Local Plan 2012-2030.

## **Arboricultural Impact Assessment**

Prior to the commencement of the development hereby approved tree protection measures shall be installed in accordance with the approved Arboricultural Impact Assessment (plan reference "AIA-SHM-19 A (Amended)" received 8<sup>th</sup> July 2019). All works shall be carried out in accordance with these approved documents and the protection measures shall be implemented at all times during the course of the construction works.

Reason: In accordance with the submitted details and to protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Torbay Local Plan 2012-2030. These works are required prior to commencement in order to ensure the natural environment is protected during the development period.

Justification: Construction works could result in damage to protected trees and the protection measures need to be installed prior to the commencement of development.

## **Pre-Commencement Meeting - Arboricultural**

Before any development or construction work begins, a pre-commencement meeting shall be held on site and attended by the developers appointed arboricultural

consultant, the site manager/foreman and a representative from the Local Planning Authority to discuss details of the working procedures and agree either the precise position of the approved tree protection measures to be installed OR that all tree protection measures have been installed in accordance with the approved tree protection plan. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.

Reason: To protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Torbay Local Plan 2012-2030. These works are required prior to commencement in order to ensure the natural environment is protected during the development period.

### **Arboricultural Site Supervision (Completion)**

The completed schedule of site supervision and monitoring of the arboricultural protection measures as approved in condition (insert condition number) shall be submitted for approval in writing by the Local Planning Authority within 28 days from completion of the development hereby permitted. This condition may only be fully discharged on completion of the development, subject to satisfactory written evidence of compliance through contemporaneous supervision and monitoring of the tree protection throughout construction by a suitably qualified and pre-appointed tree specialist.

Reason: In order to ensure compliance with the tree protection and arboricultural supervision details submitted, in accordance with Policy C4 of the Torbay Local Plan 2012-2030.

### **Flood Risk Assessment**

Notwithstanding the submitted flood risk assessment, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement of the development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 30%

allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream.

The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF. These details are required pre-commencement as specified as Torbay has been designated as a Critical Drainage Area and to ensure that a surface water drainage system is designed appropriately in light of this designation.

### **Informative(s)**

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. Responsibilities of the applicant / developer:

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

03. 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.

### **Relevant Policies**

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design  
DE3 – Development Amenity  
ER1 – Flood Risk  
ER2 – Water Management  
H1 – Applications for New Homes  
HE1 – Listed Buildings  
NC1 – Biodiversity and Geodiversity  
SS10 – Conservation and the Historic Environment  
TA1 – Transport and Accessibility  
TA2 – Development Access  
TA3 – Parking Requirements

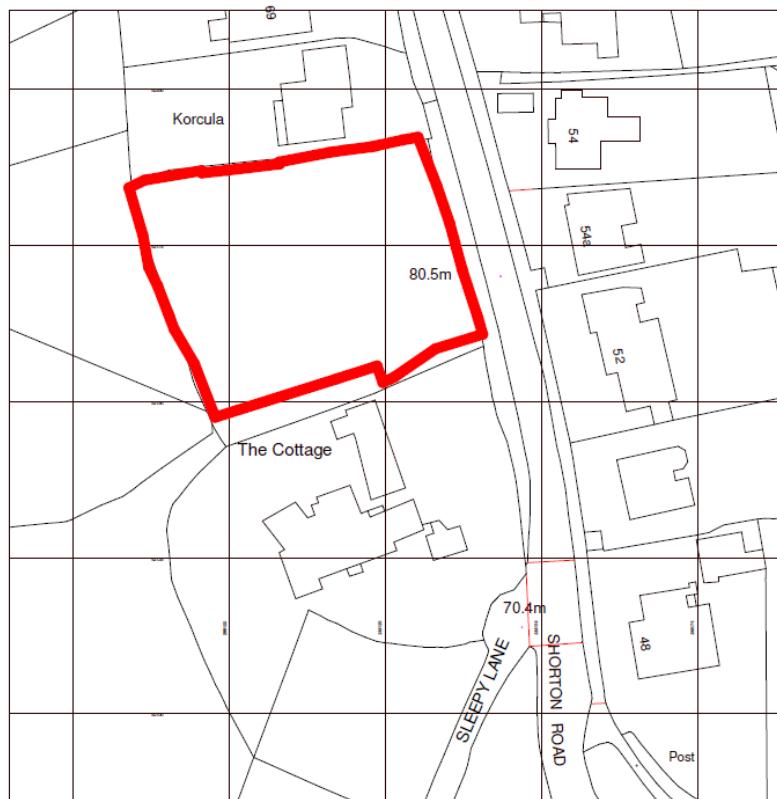
PNP1(c) – Design Principles  
PNP1(d) – Residential Development

# Agenda Item 6



Application Site Address	Land North of Shorton Manor Shorton Road Paignton TQ3 1RG
Proposal	Construction of single detached dwelling within curtilage of listed building.
Application Number	P/2019/0020
Applicant	Mr & Mrs Williams
Agent	Mr Nathan Paull - Narracotts Architects
Date Application Valid	21/01/2019
Decision Due date	18/03/2019
Extension of Time Date	16/08/2019
Recommendation	That Listed Building Consent is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due to the number of objections that have been received.
Planning Case Officer	Emily Elliott

## Location Plan:



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## **Site Details**

The site comprises a parcel of land within the curtilage of a Grade II Listed Building known as Shorton Manor. The site area is 1,700 square metres. The site lies adjacent to the remainder of Shorton Manor, Shorton Manor Cottage and No.67 Shorton Road. The site currently has no independent vehicular or pedestrian access. The site levels vary significantly, with ground levels being around 50m AOD in the north-east corner, which falls to around 40m AOD in the far southern edge of the site. The site is within the Shorton Conservation Area and is subject to an Area Tree Protection Order (1974.10 Area 1).

## **Description of Development**

The proposed works for the creation of a dwelling (the subject of planning application P/2019/0019/PA) would entail the removal of part of a listed boundary wall in order to create a vehicle access onto the public highway.

## **Pre-Application Enquiry**

DE/2017/0445: Formation of dwelling.

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Paignton Neighbourhood Plan 2012-2030

### Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## **Relevant Planning History**

P/2019/0019: Construction of single detached dwelling within curtilage of listed building. Pending Consideration.

P/1992/0380: Erection Of One Detached House And Garage (In Outline). Refused 07/05/1992.

## **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. Eight neighbour notification letters were sent to those neighbours which the development could affect. 16 letters of objection and 3 letters of support has been received.

Concerns raised in objection include:

- Not in keeping with local area
- Noise
- Privacy/overlooking
- Impact on conservation area
- Sets a precedent
- Traffic and access
- Trees and wildlife
- Overdevelopment
- Impact on local area

Comments raised in support include:

- It provides houses
- Impact on local area
- Provides/retains jobs

## **Summary of Consultation Responses**

**Interim Heritage Advisor:** *My primary concern with regard to this proposal was the impact upon the setting of Shorton Manor which is a listed building. Whilst the proposed dwelling is located to the rear of the manor and key views where the manor and proposed dwelling are restricted I originally highlighted that the scale of the building would be likely to have an adverse impact upon the setting although this would not in my view amount to significant harm. The revised scheme has responded to my concerns by making a number of revisions which I view as being positive in terms of reducing the impact. In conversation with the agent I highlighted that the landscaping of the site and the boundary with the manor needed to be reinforced. I am pleased to note that the revisions have included a suitable landscaping plan.*

*Subject to the conditioning of the details of materials and the implementation of the landscaping plan I consider that that there would be no resultant harm to the setting of the heritage asset which will still be read as a small manor house contained within a suitable grounds befitting of its status (albeit now part of the urban area).*

**Historic England:** *We do not wish to offer any comments but would refer you back to our letter setting out relevant guidance that will need to be considered, that being the Historic Environment Good Practise Advice Note 3: The Setting of Heritage Asset, which should help to inform your decision making. We would also suggest that you*

*seek the views of your specialist conservation and archaeological advisers, as relevant.*

### **Key Constraints**

1. Impact on Heritage Assets

### **Planning Officer Assessment**

#### **Impact on Heritage Assets**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses.

This application is for listed building consent only. Listed building consent is required for all works of demolition, alteration or extension to a listed building that affect its character as a building of special architectural or historic interest. The requirement applies to all types of works and to all parts of those buildings covered by the listing protection (possibly including attached and curtilage buildings or other structures), provided the works affect the character of the building as a building of special interest.

The proposed works would involve the partial demolition of a listed boundary wall for the creation of a new access to serve a proposed dwelling (the subject of a planning application currently under consideration).

The Council's Heritage Advisor has not raised objections to the proposal to remove part of the listed boundary wall. It is considered that the proposal would result in less than substantial harm to this asset, however, the modest changes and wall affected are such that the harm is considered to be very limited and there are public benefits that outweigh this harm, namely the creation of a new dwelling to help the Council meet its housing needs.

The proposal is therefore considered to accord with Policy HE1 of the Torbay Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and guidance contained within the NPPF.

### **Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

EIA:

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

### **Conclusions and Reasons for Decision**

The proposal would not result in unacceptable harm to the fabric or character of any listed building or structure. The proposed development is considered acceptable, having regard to the adopted Torbay Local Plan, the Paignton Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That Listed Building Consent is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

### **Conditions**

#### **Materials**

Prior to any works taking place in relation to the listed wall, details of the materials and finishes to be used in the works shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of Shorton Manor, Shorton Conservation Area and the streetscene in accordance with Policies DE1, HE1 and SS10 of the Torbay Local Plan 2012-2030.

**Relevant Policies**

DE1 – Design

HE1 – Listed Buildings

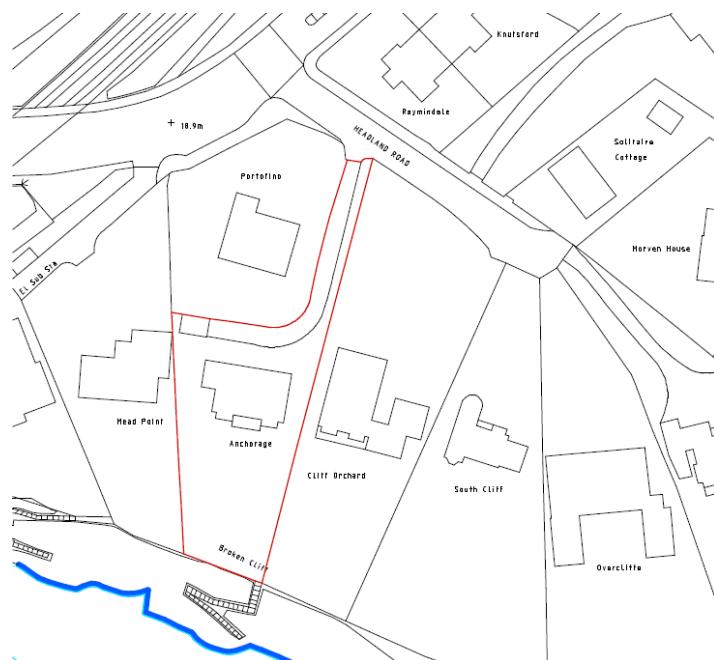
SS10 – Conservation and the Historic Environment

PNP1(c) – Design Principles

# Agenda Item 7



Application Site Address	The Anchorage Headland Road Torquay TQ2 6RD
Proposal	Section 73 application to vary or remove conditions in relation to planning application P/2018/0348: Variation of condition 9 - Balustrade
Application Number	P/2019/0261/VC
Applicant	Mr Graham Kenny
Agent	n/a
Date Application Valid	07.03.2019
Decision Due date	02.05.2019
Extension of Time Date	
Recommendation	That Planning Permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the condition to be removed was imposed by the previous development management committee.
Planning Case Officer	Ross Wise



## **Site Details**

The site comprises a large contemporary dwelling which is well set back from the road frontage on the south side of Headland Road. This house has replaced a large conventional detached dwelling, the original plot of which has been sub-divided. It shares a communal driveway with a new dwelling (allowed at appeal) which was built around 9 years ago. The property has a very large rear garden which is level and extends some 26 metres to the edge of "Broken Cliff" and the sea below. The rear garden to the property (together with the adjoining properties) is located within the Coastal Change Management Area. The side boundaries to the rear garden are screened by hedging and shrubs and is open to the cliff edge. There are slight variations in the heights of the properties along the seaward side of Headland Road but differences are not significant as the plots are all reasonably level.

## **Description of Development**

This Section 73 planning application seeks the removal of condition 9 of planning permission P/2018/0348.

Planning permission P/2018/0348 gave retrospective consent for a number of changes that had been undertaken to a dwelling previously given permission in 2015. One of the changes applied for included the provision of a balustrade around the edge of a roof area at the rear of the property, rather than it being set back as had previously been approved. Condition 9 of the 2018 permission required the balustrade to be moved back to its previously approved position.

The removal of condition 9 would allow for the retention of the existing balustrade around the edge of the roof.

## **Pre-Application Enquiry**

N/A

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Torquay Neighbourhood Plan 2012-2030

### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters

referred to in this report:

### **Relevant Planning History**

Planning permission was granted in 2015 for the demolition of a traditionally designed two-storey dwelling and its replacement with a large contemporary styled detached, three storey dwelling and attached double garage (with cinema room over).

In September 2017 an Enforcement Complaint was received that the new dwelling was being built higher than the approved plans indicated. This complaint was corroborated by the Enforcement Team, after measurements were taken.

To regularise the discrepancies, a retrospective planning application was submitted (P/2018/0348) to vary the permission previously given. The application concerned the installation of air conditioning units and a stainless steel flue on the SW elevation to the rear of the cinema room, along with a gas flue to the rear of the garage. The drawings also indicated that the approved area enclosed by the glazed balustrading had been extended out to the full perimeter of the rear, first-floor roof terrace. It was decided that the application should be considered by the Development Management Committee. The application was approved subject to 10 planning conditions

P/2018/0348 Replacement dwelling (variation of Condition P1 of original planning permission P/2015/0986) - To raise roof height, extend area enclosed by glazed balustrade above rear garden level accommodation and installation of 4 air conditioning units and a flue to the rear of the garage/cinema room on the side (west) elevation. Approved 15.11.2018

2017/0260/EN Enforcement Complaint in respect of height of the dwelling under construction.

P/2015/0986 Replacement Dwelling Approved 7.03.2016

DE/2015/0217 - Pre Application Enquiry - Redevelopment with replacement dwelling (similar to the current proposal). Positive response at Peer Group Review 9th June 2015

P/2010/1288 - Replacement dwelling at "Overcliffe", Headland Road - Approved 6.01.2011

P/2010/1393 - Replacement dwelling at "South Cliff", Headland Road - Approved 8.2.2011

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters.

2 objections and 0 letters of support were received, concerns raised include:

- Lack of compliance with planning condition.

## **Summary of Consultation Responses**

None sought.

## **Key Issues/Material Considerations**

### **Planning Officer Assessment**

This application seeks the removal of Condition 9 of planning permission P/2018/0348. The condition is as follows:

*Notwithstanding the details of the plans hereby approved ("1305-11 e" and "1305-12 h"), within 4 weeks of the date of this planning permission, the glazed balustrade on the flat roof area above the living/breakfast room shall be re-installed in accordance with its originally approved location, as indicated on previously approved plans "1305-11 c" and "1305-12 c" (planning permission reference P/2015/0986). The glazed balustrade shall thereafter be permanently retained in that position. The existing glazed balustrade, which extends beyond the previously approved footprint shall be removed within 4 weeks of the date of this planning permission.*

*Reason: To protect residential amenity and the privacy of neighbouring properties in accordance with Policy DE3 Development Amenity of the Torbay Local Plan 2012-2030.*

The condition requires the removal of a balustrade that is sited on the perimeter of the roof and its re-siting further back. The applicant has stated that this would make access to the roof difficult for maintenance and create a dangerous environment when tending the roof garden as it would create an unprotected drop at the end of the terrace in excess of 3m. The applicant wishes to vary the condition to allow the balustrade to remain around the perimeter of the terrace whilst retaining Condition 7, which restricts the use of the roof for maintenance purposes only.

Condition 7 states that:

*The outer area of flat roof above living/breakfast room identified as roof garden on approved drawing no.1305.11e shall not be used for sitting out and shall only be accessed for maintenance purposes unless otherwise agreed in writing by the Local Planning Authority.*

*Reason: In the interests of residential amenity and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.*

The balustrading under consideration is located to the rear of the property; is around 1m in height from the level of the associated roof; and is constructed of toughened glass. Given its siting, scale, and use of materials, it is considered that the balustrade,

in its current position, does not result in any harm to the character of the host dwelling or the rear garden environment and, as such, is in accordance with Policy DE1 of the Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan..

In relation to neighbouring amenity, as condition 7 prevents the use of the roof area for sitting out and only permits access for maintenance purposes, the retention of the balustrade in its existing location would not afford any more unacceptable level of overlooking towards neighbouring properties than could already occur. Given the siting, scale, and nature of the balustrade, it is considered that it would not result in unacceptable harm to the amenities of neighbours, in terms of their privacy, outlook, or access to light. As such, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

Given the restrictions in relation to the roof area, imposed by condition 7, and that the allowing the balustrade to remain in its current position is otherwise considered acceptable, the retention of condition 9 is not considered to be necessary.

### **Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

#### **S106/CIL –**

S106:

Not applicable, subject to the use of a planning condition to ensure the facility serves local residents only.

CIL:

The CIL liability for this development is Nil.

#### **EIA/HRA**

**EIA:**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

**Planning Balance**

The proposal is limited to the removal of a planning condition and as such the decision hinges around the acceptability in relation to the specifics of the planning condition and does not raise wider issues which need to be considered as part of the planning balance.

**Conclusions and Reasons for Decision**

The proposal would not result in any unacceptable harm to the amenities of neighbours or the character of the area and is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

**Officer Recommendation**

That Planning Permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

**Conditions or Refusal reasons****Geology**

The development shall be carried out in strict accordance with the Geology Report approved pursuant to condition 1 of planning permission P/2015/0986/PA.

Reason: In the interests of assessing the impact of the proposal on the Coastal Change Management Area and in order to accord with Policies C3 and ER4 of the Torbay Local Plan 2012-2030.

**Geology**

The development shall be carried out in strict accordance with the Geology Report approved pursuant to condition 2 of planning permission P/2015/0986/PA.

Reason: To mitigate the potential risks associated with development in close proximity to a cliff and in order to accord with Policies C3 and ER4 of the Torbay Local Plan 2012 - 2030.

**Permitted Development**

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting

that order) no development of the types described in Schedule 2, Part 1, Classes A - F shall be carried out without the prior consent of the Local Planning Authority.

Reason: The site is in close proximity to neighbouring properties and within the Coastal Protection Zone and so the Local Planning Authority will need to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and to accord with Policies DE1, DE3 and C3 of the Torbay Local Plan 2012 - 2030.

#### **Plant**

Within 4 weeks of the date of this planning permission, the applicant shall submit details of all external plant and equipment installed, including noise levels and predicted noise levels at the nearest noise sensitive accommodation, to the Local Planning Authority for its approval in writing. Any external plant or equipment shall be installed in accordance with the approved details, and shall be retained permanently as such.

Reason: In the interests of protecting the residential amenity of the adjoining occupiers and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

#### **Screen**

Within 4 weeks of the date of this planning permission, the applicant shall submit to the Local Planning Authority for its approval in writing, details of measures to screen the 4 air conditioning units on the south west side elevation of the dwelling. The screen shall be installed within 4 weeks of the date of the submitted details being approved, and shall be permanently retained thereafter.

Reason: In the interests of protecting the visual amenity of the adjoining occupiers and to accord with policy DE3 of the Torbay Local Plan 2012 to 2030.

#### **Materials**

The development shall be carried out in strict accordance with the external materials approved pursuant to condition 6 of planning permission P/2015/0986/PA.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030.

#### **Amenity space**

The outer area of flat roof above living/breakfast room identified as roof garden on approved drawing no.1305.11e shall not be used for sitting out and shall only be accessed for maintenance purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

#### **Flood Risk Assessment**

The development shall be carried out in strict accordance with the Flood Risk Assessment approved under planning permission P/2015/0986/PA, and the Drainage Strategy approved pursuant to condition 4 of planning permission P/2015/0986/PA.

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

### **Privacy Screens**

Privacy screens, measuring 1.8metres in height from the floor level of both ends of the second floor level roof terrace, extending 3.210 metres as indicated on approved drawing "1305-11 e", shall be installed prior to first use of the second floor roof terrace hereby approved. The screens shall be obscure glazed to at least Pilkington Level 5 or equivalent. The screens shall then at all times be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure that the privacy and general amenity of the neighbouring occupiers is preserved and to accord with Policies DE1 and DE3 of the Torbay Local Plane 2012-2030.

### **Relevant Policies**

DE1 - Design

DE3 – Development Amenity

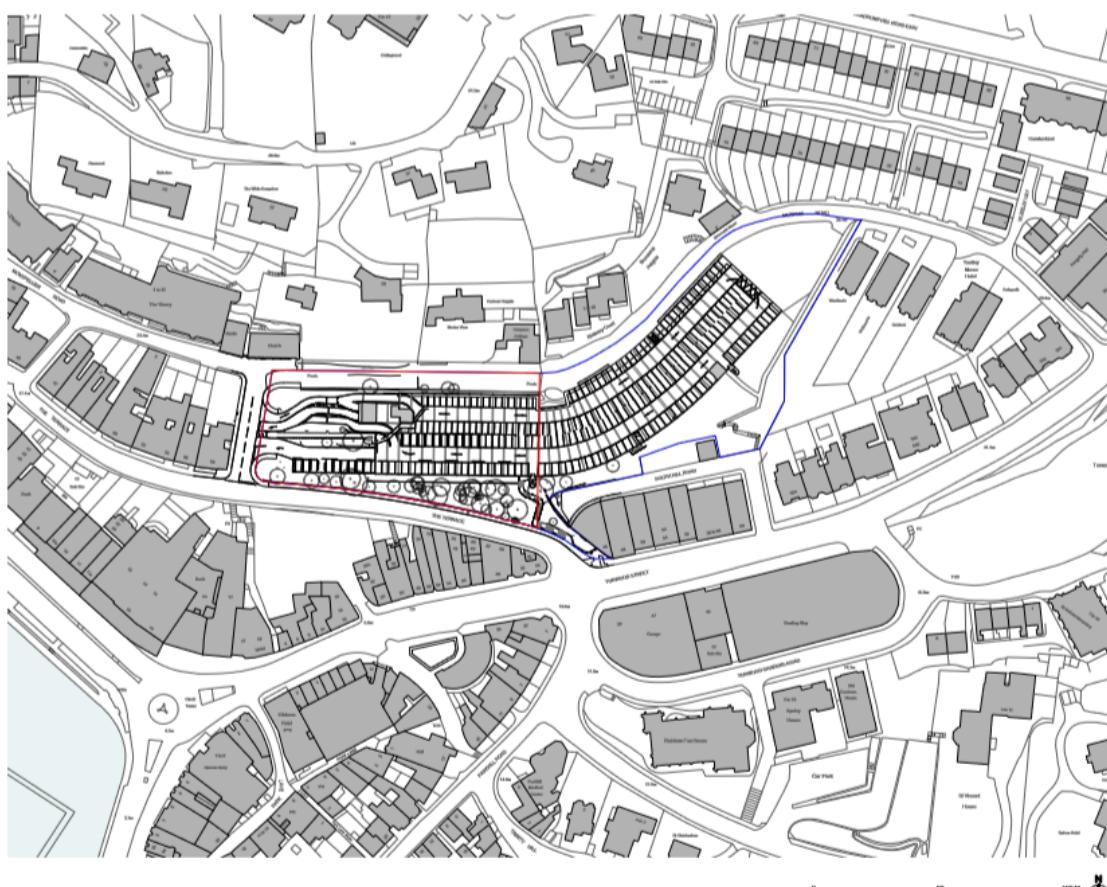
TH8 – Established architecture.

## Agenda Item 8



Application Site Address	Land at The Terrace car park, corner of Montpellier Road and The Terrace, Torquay
Proposal	Formation of 120 bedroom hotel and ancillary restaurant and associated works. Partial demolition and reconfiguration of existing car park to provide stairs, lift and ramp
Application Number	P/2019/0348
Applicant	Torbay Council & Premier Inn Hotels Ltd
Agent	Roach Planning And Environment Limited
Date Application Valid	05.04.2019
Decision Due date	05.07.2019
Extension of Time Date	
Recommendation	Conditional approval with final drafting of conditions, and addressing any new material considerations that may come to light, delegated to the Assistant Director of Planning and Transport
Reason for Referral to Committee	Major application and the application relates to land owned by the Council
Planning Case Officer	Alexis Moran

## Location Plan –



## **Site Details**

The application site relates to an area of land to the west of The Terrace multi storey car park which is on the corner of The Terrace and Montpellier Road. The site includes part of the multi storey car park and land to the west and south of this, which is currently underutilised, it is allocated as being within the Town Centre in the Local Plan policies map.

The southern boundary of the site adjoins the public footpath on The Terrace, to the western boundary the site abuts Montpellier Road. Museum Road is located to the north-east of the site and to the rear of The Terrace multi storey car park.

The site is 110m to the north-west of Torbay Harbour. It is located within the Harbour Conservation Area and in close proximity to two Grade II Listed Buildings: Higher Terrace to the west and Unity Church to the north of the site.

The car park is arranged over three storeys and contains spaces for 578 cars.

A new hotel development, fronting onto Torwood Street, which consists of a building that is adjacent to and five storeys above the road-level of The Terrace at its highest point, is under construction to the south of the site.

The site is located within Flood Zone 1.

## **Description of Development**

The application seeks permission for the development of a 120 guestroom hotel arranged over six storeys, to include a restaurant and associated facilities.

The main pedestrian entrance would be off The Terrace, providing access into the lobby, where access to the first floor reception would be gained via lifts or stairs.

The ground floor area would include various 'back of house' facilities including linen handling, plant, a bin store, and bike storage, WC and showers for staff. The service entrance would be at the south east corner of the building, adjacent to a new service bay off The Terrace. Externally, at this level, there would also be an air conditioning plant compound and light well to the north of the building.

At first floor level would be the reception, a 112-cover restaurant (189m<sup>2</sup>), bar, WCs, kitchen, storage, office, staff facilities, and 12 guestrooms. The restaurant would occupy the south west corner of the building.

The second, third, fourth and fifth floors would each have 27 guestrooms, whilst the sixth floor / roof would have a 20 kW solar photovoltaic panel array, stair access hatch and lift overruns.

The height of the hotel from road level at the corner of The Terrace and Montpelier Road would be 15.8m. Due to the nature of the road level, which slopes down towards Torwood Street, the height of the hotel would be 19.3m from road level at opposite end of the building. The hotel would be approximately 2.5m higher than the Grade II Listed properties to the west.

The gross internal area of the proposed hotel is 4,385.5m<sup>2</sup>, and it would have a footprint of approximately 1000m<sup>2</sup>. Three guest bedrooms are Universal Access with shower and three are Universal Access with bath. The guestrooms range in area from 18m<sup>2</sup> to 27m<sup>2</sup>

The hotel would predominantly be clad in render, with glass windows and metal louvre panels. The ground floor would be clad in local limestone.

The proposed hotel development also includes part-demolition of a small corner of the car park and a reconfiguration and improvement of the access ramps and circulation. A new ramp is proposed on the southern elevation of the car park to allow access between the middle and lower levels. The existing access to the lower level will be removed.

A new lift and stair core between street level on The Terrace and the car park, is also proposed which would enhance pedestrian access to and from the car park, hotel and nearby amenities.

The car park currently has 578 parking spaces, the proposed development would result in the loss of 83 spaces, partly through an increased number of wider spaces for families and disabled people. Of the 495 retained parking spaces, 60 are to be allocated on the lower level for the neighbouring Torwood Street hotel development, and 100 are to be allocated on the middle level to the hotel currently under consideration. The balance of the 335 parking spaces will remain available for public use.

Soft and hard landscaping works and ecological enhancements are also proposed for external areas, both around the hotel and at the corner of Montpelier Road over the road from Unity Church.

### **Pre-Application Enquiry**

DE/2018/0071 - Formation of 120 room hotel; the principle of a hotel development was largely supported in this location within a Core Tourism Investment Area. Design and scale comments were reserved for design review panel (DRP). As a result of the DRP nine key issues were agreed upon which were:

- The corner element (The Terrace / Montpellier Rd) needs to be better designed – good design might allow additional height.
- The front building line onto The Terrace needs to be more ‘sinuous’, removing the step and following as best possible the line of the road, and should seek to create space in front of the building – helping to improve the relationship with the That Group (Torwood Street hotel) development/ streetscene, and provide more room for pedestrian/vehicle access, and landscaping.
- Pushing the building back as a whole towards the rear ramps, and possibly reducing the land-take of the new ramp, would further improve the development from the front.
- The architecture of the front (SE) facing façade needs to better pick up the language of The Terrace.

- The arrangement of ramps to the rear has not been fixed, but the development should seek to reduce the area taken up by ramps / access and improve the environment at the rear of the proposed building.
- The gable ends need better articulation, certainly to the western elevation (as per 1. above) and the degree of articulation to the eastern elevation will depend on its visibility.
- Better use of existing voids will be explored, especially for storage, office space etc.
- Alternative locations for plant will be explored, with a clear view from Planning that plant should not be on the roof / should be an integral part of the overall design
- All of the above may result in the need to increase the amount of demolition of the Terrace Car Park.
- Provide a “square” to the rear of the scheme for delivery/public realm improvements.

### **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

#### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- Torquay Neighbourhood Plan

#### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

### **Summary of Representations**

Sixty-three representations have been received, fifty-four in objection, six in support and three were deemed to be representations which made points neither specifically for nor against the proposal. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues/ Material Considerations section of this report.

The concerns raised in the objections are as follows.

- Impact on small independent hotels and guest houses/B&Bs

Planning Officer Response: Competition between businesses is generally not regarded as being a material planning consideration, however, the principle of a

hotel development and economic benefits section of the report consider the potential impacts, and also the wider context in terms of the tourism policies.

- The Council should be investing funds elsewhere.

Planning Officer Response: The role of the Council in terms of its investment of funds is not a material planning consideration.

- Provides little employment.
- Overlooking/loss of privacy & light
- Parking/highway safety
- Trees
- Layout, density, design
- Impact on setting of Listed Buildings and conservation area

The letters of support state that the proposal will;

- Attract visitors
- Modern design
- Result in regeneration
- Fit in to its surroundings well
- Improves a redundant part of the town

### **Summary of Consultation Responses**

**Historic England Advice:** *The character of Torquay Harbour Conservation Area is derived from its underlying topography. The rocky headlands and narrow valleys create a dramatic landscape against which the town is set. As a result, the town has developed through a series of horizontal terraces, which allows development to colonise the rocky outcrops. The promontories retain their rugged and green quality through open spaces that break up the built form.*

*The town developed significantly in the 19th century as a holiday resort. The sheltered Tor Bay with its rugged landscape was considered to hold exotic Mediterranean qualities which made it attractive to visitors at this time. Steps were taken to reflect the exotic character of the landscape through the architecture and resulting in stucco properties with Franco- and Italianate detailing. Each building was also designed to take advantage of the excellent sea views. Consequently, there is a cohesive quality to Torquay's development along the upper slopes with the buildings being largely domestic in scale and often terraced together, with a vertical rhythm that breaks up the horizontal emphasis of the streetscape. These elements help to provide a visual cohesion that forms the basis for the character and appearance of the conservation area.*

*An example of this cohesive visual approach to development is the grade II listed The Terrace. It reinforces the terraced character of the town through its homogeneous quality, its strong horizontal emphasis and its white stucco finish. Consequently, its elevated position makes it a prominent feature in views from around the harbour. The proposed site will sit in the same visual plain as the Terrace and therefore this forms a key visual relationship that needs to be addressed.*

*The plot in front of the development site is currently undeveloped. However, it has an outstanding approval, which we understand should be commencing on site shortly. Due to this site currently being undeveloped, our assessment will consider the site of this application as it currently is. However, we acknowledge that some screening will be provided in respect of long ranged views from the south, but will not obscure the car-park development in all views.*

*The current car-park structure is low lying with limited impact on long range views across the harbour. It allows this section of the conservation area to retain a largely green quality due to its backdrop, which is an important feature of the conservation area. In our view, the development site, offers potential scope for regeneration of a sizable structure but this needs to be informed by a clear understanding of its context and the character and appearance of the conservation area.*

*Historic England provided pre-application advice on this scheme. We are generally disappointed by the quality of the proposal, which in our opinion has failed to satisfactorily address the character and appearance of the conservation area and the setting of nearby heritage assets by virtue of its scale, massing and overall design quality. This is a prominent location within the Torquay Harbour Conservation Area and the proposed development is not of the calibre that we would expect to see.*

*Our pre-application advice identified a need for a contextual response and in a subsequent meeting we raised particular concerns regarding the approach to the west corner and the creation of an overt and unremitting corner block. The corner block creates an overly assertive feature within the characteristic homogeneity of the conservation area. This is through its projection forward, the increased expanse of render creating a boxy and overly dominant termination to the buildings and an increase in scale that disrupts the transition from the Terrace to the new buildings by rising the proposed structure an entire storey above the terrace roof line. Due to its slope and the position of the roof behind a parapet, the roofline of the Terrace will appear fairly recessive, giving the visual perception of the new development actually being a storey and half higher.*

*As the end of the corner block forms the most sensitive part of the site, a scheme that does not produce a successful transition could result in a significantly harmful impact. Consequently, further consideration should be given to the termination of the west end of the building to ensure that it responds more successfully to its adjoining buildings and the wider conservation area. Inspiration should be sought from the Terrace, which has successfully retained an overall positive aesthetic appearance through the cohesive and homogeneous approach to its architecture by the consistency of its roofline and strong rhythmical approach to the bays of windows. We would encourage steps to be taken that look to provide the building with a greater sense of uniformity and to allow the west end to have a better relationship in terms of the scale and massing, as well as materials and articulation to the Terrace.*

*The site is in a prominent location within the conservation area. Consequently, as the application affects a conservation area, the statutory requirement for the council to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area (s.72(1), Planning (Listed Building and Conservation Area) Act 1990) must be taken into account by your authority when making its decision.*

*It is your authority's responsibility to consider the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal (Para 190, NPPF). In our view, steps need to be taken to address the west end and its relationship to the Terrace and the surrounding conservation area.*

*In determining an applications, the local planning authorities should take account of the desirability for new development to make a positive contribution to local character and distinctiveness (Para 191). Due to the scale and massing of the proposed development and its use of a corner block, we have concerns regarding whether the current proposals addresses the distinctiveness of Torquay. Para 200, identifies that the LPA should look for opportunities for new development within Conservation Areas ... and listed buildings that enhance or better reveal their significance. This is a site that offers potential for redevelopment but the quality of the design and response to the conservation area and surrounding listed buildings in our view has not been adequately addressed.*

*Consequently, we have identified that the current proposals results in harm, and as highlighted in Para 201, needs to be addressed under the balance set out in Para 196, NPPF.*

#### *Recommendation*

*Historic England has concerns regarding the application on heritage grounds.*

*Historic England would encourage the council to consider ways that the corner element of the proposals can better respond to the character and appearance of the conservation area as well as to address the relationship it has to the prominent grade II listed the Terrace. This will allow for development on the site to be brought forward in a sustainable manner as required under the NPPF through a balance of the social, economic and environmental aspects of development.*

Revised plans have been received in light of Historic England's comments and they have been re-consulted. Any additional comments will be provided to Members at the committee.

#### **Torquay Neighbourhood Planning Forum:**

*The redevelopment of the area is supported in principle as a step towards regeneration of the town centre area and we point out that the Terrace Car Park is a designated development site TNPH 41 for homes. We have, however, serious concerns about the design of the building in relation to the surrounding area and in particular the adjacent Terrace (as articulated in the representation by Historic*

*England their ref: P01060511) and therefore its compliance with Policy TH8 in the Torquay Neighbourhood Plan. This is all the more serious because it appears their pre-application advice was ignored in the submitted plans and the applicant includes Torbay Council who have a duty to uphold the law concerning historic assets.*

*This is a prominent location within the Torquay Harbour Conservation Area so the design of the proposed development will have a significant impact and affect the setting of nearby heritage assets by virtue of its scale, massing and overall design quality.*

**Policy TH8 Established Architecture**

*Development must be of a good quality design, respect the local character in terms of height scale and bulk and reflect the identity of its surroundings.*

*In the light of Historic England's assessment the design fails to be compliant with the Torquay Neighbourhood Plan Policy T8.*

*The Neighbourhood forum confirm that they would be happy to support a revised application that addressed the design issues raised by Historic England.*

**Torbay Council Interim Heritage Officer:**

*Being located within a central location in the historic core of the town the development has the potential to impact upon a number of heritage assets. I am also mindful that the scheme has been the subject of a number of iterations and has been the subject of advice from the design review panel and the previous Conservation Officer. The submitted heritage statement deals with the heritage issues in a comprehensive manner, however, I have addressed those key buildings as follows.*

**Unity Church NHLE: 1292190 (Grade II)**

*The Church is located in close proximity to the application site and represents landmark with church tower punctuating the vista up Montpellier Road, near to the car park entrance. The fall of The Terrace road results in views of the Church being largely limited to the Junction of The Terrace and Montpellier Road. Thus, the proposed hotel building will have little direct impact in terms of views when seen from The Terrace. The Church is on higher ground than the proposed hotel and will maintain views out across the bay, albeit that the new building will be visible in the context of the Church when viewed from the harbour.*

*There are longer range views including from the harbour at Victoria Parade where the new hotel will be seen in the context of the church however there is a reasonable gap (formed by Montpellier Road).*

*The heritage assessment appears to be well considered and I agree that no adverse impacts will arise with regard to the setting of the listed church, and its heritage value will not be reduced.*

**Parish Church of St John the Evangelist NHLE 1296814 (Grade I)**

*This Grade 1 listed building is a far grander structure and is located further away from the application site along Montpellier Road. There is no street level inter-visibility*

*between the listed building and the application site. There are longer range views where the new hotel will be viewed in the wider context of the Church however the scale and grandeur of the church is not diluted and there will be no harm to its setting.*

### **Harbour Conservation Area**

*The overall effect upon the significance of the Harbour Conservation Area as a whole is not considered to be adverse, and is not considered to change its special character, albeit the development will constitute a small change in appearance. Hence I consider that there will be no material harm to the character and appearance of the Conservation Area. However, the impact upon the Terrace is material and I will discuss this in more detail.*

#### ***The Terrace NHLE: 1280014 (Grade II)***

*Due to the relationship of the Terrace with the application site this is considered to be the most sensitive relationship as the new hotel will sit as a near neighbour to the listed building. The applicant's heritage appraisal has considered this relationship carefully and advises:-*

*'Whilst the development will not affect the ability to appreciate the architectural interest in the detailed decorative arrangements and structure of Higher Terrace, nor an appreciation of its location and topographic relation to the harbour below, it will add a new and modern addition in glimpsed views towards Higher Terrace from the harbour and across the town.*

*Whilst this will be understood in the context of an urban environment in which older and newer structures are apparent together, the proximity of this modern element will lead to some competition with Higher Terrace and may detract from its formal Georgian appearance (notwithstanding their physical separation). The effect is considered minor, and if there is any harm (as per the NPPF), this is considered less than substantial.'*

*I consider that this is a fair assessment. The urban grain is finer in the locality of the application site and when viewed from the harbour for example allows for mature trees to be more apparent due to the break in the density of built structures despite the car park structure. In my view there is harm arising to the setting of the listed building but I would agree that it is less than substantial harm in terms of the tests provided by the NPPF. I am mindful of the response from Historic England whose primary concern appears to focus on the west end of the proposed building and its relationship to the Terrace and the surrounding conservation area. There are different potential approaches to the design solutions for the proposed building but I do agree that a design response to the Terrace to inform a cohesive and homogeneous approach to its architecture by the consistency of its roofline and strong rhythmical approach to the bays of windows, is a desirable design response. The Terrace is in my view an exceptionally visually strong building which stands out in contrast to adjoining buildings, especially when viewed from the harbour. Thus a contrasting style for the proposed building is not automatically the wrong solution, and in many ways the proposed hotel despite its scale has a modest architectural approach which is hard to fault as an approach when surrounded by such grand heritage buildings. In addition the context is changing and account has to be taken of the new Hilton hotel which is*

*under construction.*

*I am pleased to note that the applicant has now responded to the concerns raised by Historic England and have reduced the height of the corner wing of the hotel adjacent to the Terrace. Whilst the corner element still stands slightly higher than the main hotel building I consider that the resultant height difference is insignificant in terms of the impact upon the wider contextual views. The design review panel had indicated the scope for a higher element on the corner adjoining the Terrace which in many respects would be a standard design response, but in this case I consider that it is appropriate to respect the advice of Historic England and to lower the height of the corner block, as is now proposed in the revised plans.*

*I also note that the fenestration of the corner wing has also been revised to better reflect the rhythm of the Terrace which is a positive step.*

### **Conclusion**

*In light of the revisions now received I conclude that in terms of the tests contained within the NPPF that the level of harm arising would be less than substantial in terms of the setting of The Terrace. The case officer is therefore advised to consider paragraph 196 of the NPPF which states:-*

*“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

**South West Water:** *South West Water has no objection. The foul and surface water drainage strategy as proposed has been agreed and the Torbay Development Agency already advised of the presence of a major sewer running under the site for which construction details will require our prior approval.*

**Drainage Engineer:** *Providing the surface water drainage for the new development is constructed in accordance with the hydraulic design included within the revised flood risk assessment dated 2<sup>nd</sup> May 2019 (issue number 3), I have no objections on drainage grounds to planning permission being granted.*

### **Torbay Council Strategic Transport:**

*I am writing to provide transport comments in response to the planning application (P/2019/0348) at The Terrace, Torquay. I note the application seeks outline approval for “Formation of 120 bedroom hotel and ancillary restaurant and associated works. Partial demolition and reconfiguration of existing car park to provide stairs, lift and ramp.”*

*The Transport Assessment (TA) sets out that the site is located in a sustainable location with a variety of facilities within walking distance, along with cycle and bus routes nearby providing access across Torbay. The railway station is within*

walking distance, or can be accessed by bus or taxi services. The TA notes that there are rail connections to destinations further afield and regular links to Exeter. This possibly underplays the potential for use of rail given that there are direct links from Torquay to London, Bristol, Birmingham and Manchester. The connections to Exeter will be half hourly following the expected timetable changes in December 2019.

As recognised in paragraph 4.3 of the TA, the proximity to facilities does reduce the need for those staying at the hotel to travel by car.

In principle therefore, this is a suitable location for a hotel which meets the key sustainable travel policies of the Development Plan.

There are five more aspects for consideration:

### 1) Parking

The site contains a 120 bed hotel and 189sqm restaurant open to the public. There is a need to alter the existing public car parking arrangements, with an overall reduction of 83 spaces. The new lower level car parking is accessed by a ramp with sufficient space for one vehicle in each direction. A waiting area is therefore proposed on the upper level so that the flow of vehicles on the middle level is not affected. It is not clear what method of control is to be provided to ensure there is not a clash of vehicles on the ramp, or that the vehicles on the lower level can wait out of the way. There is a note (at 5.6) explaining that this will be handled by the end user. Whilst this is ok, it would have been desirable to understand the options to demonstrate that it is a workable solution.

It is noted that the reserved spaces for this development fall outside of the red line of the development, though within the blue line boundary. Whilst these changes are an internal change to the layout of the car park, given the link to the development I have raised it for consideration.

It should also be noted that whilst there is considerable vacant capacity in the car park currently, the 160 reserved spaces (from a total capacity of 495) in addition to the 114 average maximum current use, will result in a spare capacity of 221. The busiest month (August) would have a remaining capacity of 26 spaces. This would still be sufficient day to day. The current car park use peak is not the same as the restaurant peak that would be expected for this hotel and/or the THAT Group development – these users could be in addition to current demand and would not utilise reserved spaces. There are other permit holders in addition to the reserved spaces, but these are accounted for within the current usage.

It is noted that the site is also allocated for 60 dwellings. This is likely to further reduce the capacity of the car park. Until such development comes forward the

*impact of this is not possible to identify but it will be something for consideration in the future.*

*For clarity, policy TA3 ‘Parking Requirements’ does not set a requirement for parking when sites are located within the Town Centre – as this site is. The policy expects that the existing public parking provision will suffice. This assumption in the Local Plan is confirmed above through the analysis of the application.*

## **2) Junction Capacity**

*The submission sets out how there is an impact on the Torwood Street signalised junction. The signal timings have been adjusted to create more capacity in the junction overall, but it reduces capacity on the Torwood Street arm. As such the queue lengths here are expected to increase. That junction can at times become congested, particularly with loading. To reduce that effect, it is recommended that a no loading restriction is put on the extent of the existing double yellow lines. It may be preferable to increase capacity further by removing the metered spaces, however, this is likely to impact directly on local businesses and a no loading restriction would be a balanced outcome.*

## **3) Servicing**

*Serving will take place from a new layby addition to The Terrace. This is acceptable but will require the appropriate Traffic Regulation Order. Paragraph 5.10 states that it is envisaged that the “Montpellier Road loop” will be utilized by delivery vehicles. Given the tracking submitted in the TA identifies some pavement overrun and the general narrowness of the route, with other delivery vehicles potential on the route as well, it is recommended that delivery vehicles turn at the first junction of Montpellier Road and the Terrace. This will accord with the proposals for the Torwood Street hotel development.*

## **4) Cycle Parking**

*Provision is explained for internal storage for staff, and room storage for guests which is in accordance with the Development Plan policies. There is no apparent allowance for restaurant guests. External hoops are recommended.*

## **5) Travel Plan**

*As noted in the TA, it would be necessary for a Travel Plan to be prepared and approved prior to occupation of the hotel. It would be more beneficial if it were in place prior to recruitment of staff and first room sales, to ensure that all new staff*

*members are aware of their options and any staff benefits, and that guests have the information they need to consider their travel choices.*

*The TA does not note that the Travel Plan will further help to meet the requirements of the transport policies in the Development Plan. This would need to be the case.*

*In summary, the application is supported as it accords with TA1, TA2 and TA3, so long as the routing for deliveries, cycle parking and Travel Plan requirements can be met. With regards to Planning Contributions and works, as noted in the TA, the pedestrian crossing point at the vehicular entrance to the car park is necessary to ensure safe routes for pedestrians, along with the works to repaint the "No Entry" to ensure it is clear for all vehicles. Additionally the works for the layby (and associated TRO) are necessary on The Terrace. Lastly, given the anticipated queues on Torwood Street it is necessary to ensure a no loading restriction is imposed in proximity to the junction. My recommendation is to just include the no loading restriction as far down as the metered spaces, and to maintain those in place. It has been assumed that sustainable transport contributions as set out in the SPD are mitigated by the gain of employment and therefore there is no specific ask. Should this not be the case please let me know.*

**Torbay Council Community Safety:** *No objection to this application subject to a condition requiring the installation of the odour control equipment as detailed by Jenkins associates prior to commencement of use.*

**Natural England:** *Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.*

*Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.*

**Environment Agency:** No comment received

**Police Liaison Officer:**

*CCTV should be designed to co-ordinate with external lighting and landscaping. The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended to be used for prosecution.*

*With regard to the car park facilities, it is strongly recommended that these incorporate the physical and management measures required by the Safer Parking – Park Mark award scheme as detailed on the Secured by Design website. Park Mark is awarded to parking facilities that have met the requirements of a risk assessment conducted by the police designing out crime officer. These requirements mean that measures have been put in place to help deter criminal activity and anti-social behaviour. The scheme is managed by the British Parking Association.*

**Devon County Archaeologist** - *No comment. Any archaeological deposits are likely to have been destroyed by the creation of the car park.*

**Torbay Design Review Panel:**

10.08.2018 (Note the Design Review Panel considered the proposals at the pre-application stage and their observations represent a material planning consideration). *A key constraint of the context is the vehicular movement, tracking and accesses. The handling of the entrance to the existing car park and the options for locating a service bay for the new hotel are bound to be substantial determinants of the site strategy.*

*The site plan seems to show a considerable amount of ramped highway to the north of the hotel site in order to provide individual two-lane entrance and exit routes serving each of the two main levels that will remain in public use. We heard that other options had been examined, but we find it hard to believe that this was the most opportune solution, and the discarded possibilities ought to be re-examined or further variants explored.*

*The arrangement of ramped routes denies any possibility for this open space to be ordered and laid out in an attractive urban manner – possibly, for example, forming a type of ‘square’ that might respectfully recognise the presence of the delightful (and listed) Unity Church to the north. This space might also provide the potential for larger vehicles to turn without reversing, if the square acted informally as a shared-space roundabout? High quality innovative highway design input should be sought.*

*The configuration of the highways and associated structures might also provide the opportunity for including some tree-pits or decent planting areas here so that structural planting might civilise the otherwise over-engineered character of the space?*

*Could the arrangement of the ramped approach to the car park be less wasteful of space, so that the option of providing a delivery bay serving the hotel might be located here at the rear rather than the front of the building? Segregated pedestrian access/egress from the car park alongside the vehicular routes might also be usefully achieved.*

*We have mentioned the presence of the diminutive but significant Unity Church to the north and its potential impact on the site organisation. Equally, the three-dimensional composition of the gable-end of The Terrace should also be studied – currently the design seems to be largely pre-occupied with the two-dimensional relationship to the main elevations (rhythms and proportions etc) which is a vital concern, but the manner in which the new hotel responds to the corner condition across the secondary street*

*is also a key consideration. The handling of the hotel's western end needs to be a successful three-dimensional counterpoint.*

#### *Building Form and Massing*

*The key flexibilities in terms of massing and form seem to be:*

- the amount of reduction (demolition) to the existing car park structure at its south western corner, which effectively de-limits the width of the site available*
- the acceptable height to which the development might rise at its eastern end – the proposed single storey 'step' occurring approximately a third of the way along the form may not be the only satisfactory solution and it was noted that this still left a further single storey plant room as a final addition to the roofscape.*
- better utilisation of voids created by retaining substructures, or the reduction / omission of these where possible.*

*Given that the number of bedrooms that a likely hotel operator would wish to utilise has been established (at least, as a range) then we suggest that alternative strategies which might test these potentials are explored. This is clearly a three-dimensional challenge and some presentation format needs to be found that can portray the spatial arrangement of accommodation and assess the pros and cons of each in compositional and organisational terms.*

*The main idea within the formal handling of the mass is to generate a building of three parts – two elements to either side of a linking section which rises to form an attic condition. The elements to either side were explained to take on characteristics of The Terrace (to the west) and the car park (to the east). Whilst this may have been generated in an attempt to reduce the apparent scale of the building, we do not recommend this 'schizophrenic' approach and would urge that a single dominant language is pursued, so that the building might possess a confident, satisfying identity - that might not be so literal in generating a contextual response to its immediate neighbours.*

*Undoubtedly, the positioning of the restaurant provides some positive active frontage to the street as it climbs up to The Terrace, but our strong sense is that this most public part of the building might best be located at ground level at the western end of the building – where it might animate the corner condition, be perceived as a stronger location by non-resident clientele and create an easier relationship to the pedestrian routes down through the town.*

*Placed here it might also be able to contribute to creating a good response as part of the gable end modelling/composition (as discussed at 2.4 above).*

*The stepping forwards of the eastern portion of the building appears to be largely a product of the vehicular ramp to the rear – it seems otherwise to be a weak idea. The general alignment of the front façade surely ought to be carefully set out consistently to the 'building line' established by The Terrace. The western end does not seem to quite achieve this either. We noted that this 'building line' is a composite curve (as, indeed, are many of the terraced forms found in Torquay). The relationship of the new building to the building line is key; there are many ways of achieving this and we recommend that alternative forms are properly analysed and assessed.*

*Whilst we believe that these conventional urban design principles of respecting a common building line should be the starting point, we were not given sufficient information to assess the likely outcomes in terms of the character of the street that this would create. Much fuller depiction and assessment of the Torwood Street development is needed in plan, section and as a three-dimensional presence in relation to the proposals. There is a danger that the street created between will have little quality at ground floor level and the public realm may feel tight and pinched. The sketch drawing you included from an earlier set of proposals indicated development set back along this frontage but the proposals that we were shown are clearly now a very different prospect. Apart from considerations of good urban design, there will also be more pragmatic concerns to ensure that sunlight/daylighting and inter-visibility between sites is satisfactory. The effects of traffic noise occurring in between closely opposing facades of significant scale should also be carefully considered. Closer studies need to be generated and these must demonstrate that a satisfactory street character and experience will be created.*

*In terms of the current proposals then the location of the delivery bay on the front edge of the site is unfortunate and creates a partial space that one might otherwise associate more naturally with the main entrance. This, combined with the recessive secondary character of the linking section of the façade, creates a poor street character alongside the main entrance. The entrance itself seems to be at 'rear of pavement' with little chance for a gracious approach or exit, with no canopy or shelter or, indeed, any architectural significance.*

*In general we would suggest that the main entrance and the service entrance be as separate as possible. We have suggested that the service entrance might be at the rear (see 2.3.4, above) but, failing this, it might be at the extreme east end or east gable (and the proposed car park access relocated).*

*Every effort should be made to either eradicate or reduce the plant space on the roof – potentially by making more intensive use of the substructure voids as plant space?*

*A new substantial stair-core is shown constructed at the south west corner of the car park and this sets up an uncomfortable tension with the gable end of the hotel. If safe and direct pedestrian access egress can be achieved to the west (as at 2.3.4 above), then we suggest that the existing stair (further east on the southern side of the car park) is rebuilt and then a better graded ramped landscape route is created running diagonally across the open space. This existing stair, and the concrete steps it provides access to, is in very poor state and probably ought to be de-commissioned if not rebuilt in this way.*

*We noted that the car park was generally in a poor and unmaintained condition which must have contributed to its under-use. Since it now forms an integral part of the proposals for this hotel, the proposed hotel on Torwood Street and the long-term parking strategy for central Torquay, it seems essential that the proposals for its upgrade should form part of the overall design proposal being brought forward and presented – even though portions of the full development proposition may be the subject of separate planning submissions.*

*Building Organisation and Composition*

*The layout of these building types is naturally driven by a double-loaded corridor, but beyond that basic principle, we see a number of potential improvements. The internal anatomy of the new hotel shows that in plan the main corridor cranks uncomfortably midway along the building. It would be more efficient and more easily navigable as a straight (or almost straight) corridor.*

*The vertical circulation cores and linen rooms might be usefully placed on the northern side of the plan – allowing more bedrooms to face south and gain sunlight and obtain the partial views over the harbour. The central core with the lifts needs more space to ‘breathe’ before it joins the main circulation corridor.*

*It may be advantageous to place the cores which act as means of escape (at either ends of the corridor) not at the very end, where they will impact on the handling of the gable end elevations, but ‘in-set’ in plan, so that the fenestration of bedrooms can be part of these end compositions.*

*Whilst many rooms are similar it seems that there are some family rooms and other types which may offer a slightly different opportunity in terms of creating an alternative rhythm within the external appearance – these non-standard slightly larger rooms might also be capable of accommodating additional fenestration within the room layout when placed in corner conditions? The tactical placing of these rooms seems therefore to be a key consideration when considering the composition of the building’s appearance.*

#### *Materials, Energy and Appearance*

*We did not spend a great deal of time discussing materials and detailing, but robustness at street level is crucial and more generally thin render finishes need to be very carefully specified / detailed to avoid deterioration. We did not immediately see why zinc cladding was favoured. We recommend that large scale drawings demonstrating the quality of materials and construction form part of any planning submission and this would be much more preferable to relying upon a pre-commencement condition to request that these details are submitted later.*

*We suggest that air management and ventilation strategies should be considered as part of the evolving design to avoid ubiquitous and untidy punctuations for bathroom extracts and other such paraphernalia. An integrated energy system with central heat recovery might be explored to reduce the building’s carbon footprint.*

*We were unsure of the environmental and energy standards to which the building was being designed to comply. We were told that the roof had ‘solar panels’ but it was not clear what these were or what they were intended to do – or what they looked like and whether they were visible. We would encourage the establishment of clear energy strategy early in the design process. If a thorough approach to energy conservation and reduction was employed then we might expect the results of that to feed in to the final appearance of the building (brise soleil, vents, plant room).*

#### *Concluding Remarks*

*This is a complex three-dimensional challenge – especially when one considers the impacts of the vehicular ramps to the rear and achieving the optimum solution for those is crucial. There is more to be responded to and inspired by in the existing urban*

*context (including, of course, the historic assets) and this needs to be studied more closely.*

*The proposals are clearly still at an early stage and we have identified several weaknesses that need to be addressed. We would not support the design if presented as a planning application in this current form.*

*We have indicated a number of potential alternatives to explore in the text above and would be very happy to review the project again.*

As discussed above, the comments made by the DRP were formed part of the pre-application discussions and a significantly revised scheme emerged in response.

**Torbay Council Landscape Officer:** No comments received

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

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

1. The principle of a hotel development
2. Economic benefits
3. Design and Visual Impact
4. Heritage Assets
5. Impact on amenity.
6. Trees and ecology.
7. Flooding and drainage
8. Highways impact

#### **1. The principle of a hotel development**

Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to increase overall spend. Proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark are encouraged by this Policy. The Policy states that the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services. This will be achieved by supporting the principle of new tourist accommodation subject to other policies in the plan and the creation of new high quality tourism accommodation in sustainable, accessible locations.

The Policy states that Core Tourism Investment Areas are the main focus for investment in tourism which includes Torquay harbour side and The Terrace car park site. Core Tourism Investment areas are intended to focus on new high quality tourism

and leisure accommodation in sustainable, accessible locations in order to provide a critical mass needed by a premier resort.

Policy TE1 of the Torquay Neighbourhood Plan states that new tourism developments will be particularly supported where they make use of brownfield land for the provision of tourism development.

The proposed development would provide a modern hotel facility within an area allocated for such developments in the Local Plan and on an underutilised, brownfield site. Therefore the principle of the new hotel is deemed to be acceptable, subject to compliance with other relevant Local Plan & Torquay Neighbourhood Plan Policies.

The site is allocated in the Torquay Neighbourhood Plan for 60 units of accommodation. However, the proposed hotel would only occupy a modest proportion of the car park site so would not jeopardise any future residential proposals elsewhere within the remaining allocation area, should such proposals come forward in the future.

The proposal is also compliant with the Torbay Economic Strategy which highlights the site as accommodating potential commercial and/or residential development.

Bearing the aforementioned points in mind, the principle of a hotel in this location is deemed to be acceptable and would accord with the relevant development plan policies identified.

## **2. Economic Benefits**

Policy SS1 states that development should reinforce Torbay's role as a main urban centre and premier resort. Policy SS4 of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism, hotel and catering. The applicant's economic viability assessment states that new hotel would be likely to create 30 full time jobs directly. During the construction phase there are likely to be additional jobs created.

Policy SS11 of the Local Plan details that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

Policy TC5 states that the Council supports, in principle, development that helps create a vibrant, diverse evening and night time economy within the town centres, seafront and harbour areas of the Bay. The proposed hotel development would include a restaurant, in addition to hotel accommodation, on brownfield land that is currently under-utilised, and would therefore contribute to the vibrancy and general visitor offer

within the town centre. The proposal is deemed to comply with Policy TC5 of the Local Plan.

The Torquay Neighbourhood Plan refers to a document known as 'Turning the Tide for Tourism', which along with the 'English Riviera Destination Management Plan' identify an oversupply within Torbay in the small B&B guest house sector, with significant oversupply of low quality low value-added small hotels. They also identify a significant shortage of large, modern, quality hotels and branded chains, the proposals would help to address such a shortage.

The proposed hotel would generate 30 new permanent jobs and 6 indirect jobs elsewhere in the supply chain. The proposed hotel would directly contribute approximately £1.16m per year to the local economy in terms of net gross value added. The job creation and benefits to the local economy are considered to be material and should be regarded as being beneficial.

Based on Premier Inn's projected occupancy figures, an estimated 64,000 guests would stay at the new hotel annually. The economic benefits of the hotel are estimated to amount to approximately £3.3m per year in additional net tourism expenditure, with guests going out to eat, drink and be entertained in the local area.

During construction, the project would generate 124 direct jobs and 27 indirect jobs elsewhere in the supply chain. A target of 80% has been set for procurement of subcontractors to be based within 30 miles of the site. The build contractor has stated that they will, as part of a suite of socially responsible recruitment measures, provide 246 training weeks for apprentices, traineeships and new entrant trainees in key professions and trades.

A direct investment of approximately £11m will be made in construction and completion of the hotel itself. The construction stage will also provide wider economic benefits amounting to approximately £7.7m in net gross value added.

A number of objections to the proposed hotel relate to competition, however business completion is not generally held to be a material planning consideration.

Notwithstanding this, and given that the local and neighbourhood plans include policies as detailed above which address the tourism sector the applicant has provided headline information from the Torbay Accommodation Audit 2019 to support the hotel proposal, the headline information provided by the applicant is summarised below;

*Torbay welcomes over 4.5m visitors per annum with an annual visitor spend of over £435m. Torbay's staying visitor numbers, using serviced accommodation, has remained at around 1.6 – 1.76M visitor nights since 2013.*

*The English Riviera's Destination Management Plan (2017 – 2021) seeks to:*

- *Attract new visitors*
- *Attract investment*
- *Improve the quality of accommodation*

- Improve hotel occupancy throughout the year

*The branded budget hotel sector in the UK has almost doubled in size since 2012, from 11.4% to 21.1% of total serviced accommodation bedrooms. However, branded budget hotel supply in Torbay was 2.7% in 2014 and is currently 6.7% of total serviced accommodation bedrooms, indicating growth of just 4% in the last 5 years.*

*Visit England are reporting that 36% of UK people prefer to stay overnight in a hotel/motel; just 5% prefer to stay in a guest house/B & B. The overall quantity of serviced accommodation bed spaces has reduced by around 15% (2,764 beds) between 2007 and mid-2019, although there has been a net increase in bed spaces (of just over 1600 or 3%) since 2014.*

*Feedback from surveys, visitors and events (e.g. UNESCO Conference on Global Geoparks 2018) show there is a shortage of accommodation that consistently meets modern expectations; the proportion of business trips is declining; Torbay is missing out on an estimated £4M p.a. spend from conferences & events, due in large part to the quality, size and availability of existing hotel accommodation.*

*There are significantly less branded bed spaces in Torbay (9%), compared to the UK (47%) and to other coastal places such as Brighton (50%), Scarborough (25%) and Bournemouth (33%) according to research sourced from AM:PM*

*There has been a small increase in Torquay's serviced accommodation supply since 2014, with only 3% (350 bed spaces) growth in the number of bed spaces. Comparatively, both Paignton and Brixham have seen increases of 37% (1080 bed spaces) and 35% (175 bed spaces) respectively.*

*If the proposed 120 bedrooms at Terrace Car Park and 128 bedrooms (Hampton by Hilton, Torwood Street) are included, Torbay's branded budget supply of bedrooms would be around 10% - less than half of the UK proportion.*

*The increasing popularity of year round short breaks and the growing trend of staycations are opportunities for the destination, helping to grow the visitor economy, new jobs, skills, apprenticeships etc. A high percentage of existing bed spaces in Torbay are seasonal.*

*The age of existing visitors and number of repeat visitors are risks to Torbay's economy*

Based on the information in the headlines above from The Torbay Accommodation Audit 2019 it would appear that the proposed 120 bedroom hotel would help to deliver the objectives in the English Riviera's Destination Management Plan and would not appear to result in the saturation of the market with budget hotels.

It is considered that the proposal accords with the aspirations of Policies SS1, SS4, SS11 and TC5 of the Local Plan, and would bring economic benefits to the Bay especially compared to the existing situation.

### **3. Design and Visual Impact**

The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

The submitted design and access statement advises that a number of potential development areas were investigated on the site. The key constraints were to retain sufficient parking spaces within the existing car park, provide access to the lower level of the car park with a minimum of 60 spaces, and allow for future residential development on the site. The eastern end of the car park was explored for a hotel development but access to the site along museum road proved difficult so the proposal was abandoned.

A hotel was also proposed on the western end of the car park with accommodation extending over the ramp access. This achieved the number of rooms required for the investment but was deemed too complex. This however set the precedent for development at the western end of the site.

The proposed elevations would be finished in render with aluminium window frames and recessed panels, providing a horizontal emphasis in keeping with the listed building to the west. The top floor would be finished with aluminium panels, which would provide a recessed appearance higher up and reduce apparent massing. . At the ground floor level, there would be a stone plinth made of recycled limestone from the existing boundary wall.

The restaurant would be located in the south-western part of the proposed building, facing on to the corner of Montpellier Road and The Terrace, which would serve to emphasise its location. This is considered to be the optimal location in terms of legibility for the approach from the car park, Fleet Walk and the town centre.

At the north-western corner of the site would be an area of improved public amenity space, across the road from the Grade II Listed Unity Church.

The Torquay Town Centre Masterplan states that the site should continue the built frontage of the Terrace to help re-define the street in this part of the town centre. A safe and attractive route for pedestrians from the Terrace Car Park scheme down to the harbour is also recommended.

It is considered that the form and layout of the scheme would make effective use of the available space, and responds well to the steep topography of the site. The site is considered to have a generally tired appearance, comprising low quality and under-utilised open space, and a dated multi-storey car park. The proposed hotel would, to some extent, provide a visual screen to the car park; would provide an active frontage along this part of the Terrace; and would involve landscaping enhancements at the site.

The proposal includes the part-demolition of a small corner of The Terrace multi-storey car park and a reconfiguration and improvement of the access ramps and circulation. A new ramp is proposed on the southern elevation of the car park to allow access between the middle and lower levels with the existing access to the lower level being removed. The proposal would also include the creation of a new pedestrian access block on the southern elevation of the car park, to be located closed to the south-eastern corner of the proposed hotel. Given their siting, scale, and design it is considered that these elements of the proposal would have an acceptable impact on the character of the area.

The applicants have addressed a number of the suggestions received from the advisory Torbay Design Review Panel (the comments of which are a material planning consideration) along with the Council's pre-application advice provided by planning officers. For the avoidance of doubt pre-application advice is not binding on the Council in terms of the decisions made at the application stage.

To the south of The Terrace car park lies the Torwood Street development which is currently under construction, this is a mixed-use development including retail units, offices, gym and a 130 bed hotel. The hotel element of the development would face The Terrace and would comprise a 5 storey building above street level on The Terrace. This building would be located in front of the hotel under consideration, on the opposite side of the Terrace. Whilst the proposed building would be around 3.5m taller than this neighbouring building, it would also be largely obscured by it and other intervening structures when viewed from the wider area, including from Torquay Harbour.

Policy DE4 states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. New development should be constructed to the prevailing height within the character area in which it is located, unless there are sound urban design or socio-economic benefits to justify a deviation from this approach.

The policy goes on to state that new buildings above the prevailing height will be supported where they;

- o Enhance the vitality of an area
- o Contribute to the regeneration of Torbay
- o Strengthen the character of an area
- o Are appropriate in terms of their visual impact
- o Provide wider urban design or socio-economic benefits
- o Make a positive addition to the built form, townscape and surrounding landscape; and
- o Preserve or enhance local and long-distance view, and key vistas

The proposed building would be 2.5m higher than The Terrace to the west (which is 13.3m in height when measured from ground level on the corner of Montpellier Road and The Terrace) and a storey higher than the northern elevation of the Torwood Street development to the south (albeit that the Torwood Street development is significantly higher at 26.8m at its highest point when considering the additional storeys on the Torwood Street elevation). In the context of the immediate neighbouring properties and the wider area, it is clear that the prevailing building height is quite varied, being characterised by a variety of building heights located at a range of different ground levels, the proposal is not considered to be contrary to Policy DE4, or harmful to the local character. In any case it is considered that the proposed hotel building would meet the criteria listed above in terms of enhancing the vitality of the area, providing socio-economic benefits and contributing to the regeneration of Torbay through providing quality tourist accommodation with improved facilities and the creation of jobs.

Policy TH8 of the Torquay Neighbourhood plan states that: - Development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

For the reasons discussed above in relation to the Torbay Local Plan design policies, the proposed development is considered to accord with policy TH8.

On balance, it is considered that the proposal, given its siting, scale and design, along with the local context, would not result in unacceptable harm to the character of the area. Conditions are recommended to secure the details of cladding materials and boundary treatment, a scheme of landscaping, details in relation to bicycle and bin storage, and details of all plant and solar energy equipment to be added to the roof. Subject to the use of these conditions, the proposal is considered to be in accordance with Policies DE1, DE4 and SS11 of the Local Plan, Policies TH8, TS2 & TS4 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

#### **4. Heritage Assets**

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Similarly Section 66 of the Act requires that in considering whether to grant planning permission [or 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 or any features of special architectural or historic interest which it possesses.

Policy HE1 refers to Listed Buildings and states that development proposals should have special regard to preserving listed buildings and their setting. Policy SS10, Conservation and the Historic Environment, states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy TH8 of the Torquay Neighbourhood Plan states that development must be of a good quality design and respect local character.

Unity Church is a Grade II listed building located to the north of the site on Montpellier Road, near to the car park entrance. Due to the siting of the church and the topography of the land, views of the church being largely limited to the junction of The Terrace and Montpellier Road. Thus, the proposed hotel building will have little direct impact in terms of views when seen from The Terrace. The church is on higher ground than the proposed hotel and will maintain views out across the bay, albeit that the new building will be visible in the context of the church when viewed from the harbour.

The area in front of the church, located in the site's north-western corner, is to be improved to provide an area of public amenity space. It is considered that this would help to enhance the church's setting. The proposal would not result in harm to the setting of Unity Church.

The Parish Church of St John the Evangelist is a Grade I listed building located approximately 120m from the site. There is no street level inter-visibility between the listed building and the application site. There are longer-range views where the new hotel would be viewed in the wider context of the church, however the scale and grandeur of the church is not diluted and there will be no harm to its setting.

The close proximity of the proposed hotel to the Grade II listed Terrace to the west results in this being the most sensitive relationship. Although the Torquay Neighbourhood Forum support the redevelopment of this site in principle, their comments state that they have concerns with regard to the design of the building in the context of its surrounding and in particular the Listed Terrace to the west. Reference is made to the concerns raised by Historic England which has concerns about the difference in height between the proposed hotel and the listed Terrace and the relationship and design of the west elevation of the building. The Neighbourhood Forum therefore considers the proposal to be contrary to Policy TH8 of the Torquay Neighbourhood Plan, which states that development must be of a good quality design and respect the local character in terms of scale and bulk. One of the objectives of the Torquay Neighbourhood Plan is to '*protect and enhance the local natural, built and historic environment*'.

Amendments to the scheme have been made as a result of these comments. The west elevation of the proposed building has been reduced in height by 500mm and additional fenestration is provided to the elevation facing the listed Terrace building. The Council's interim Heritage advice is that it is considered that the alterations respond to Historic England's concerns by lowering the height of the corner element and improving the fenestration to better reflect the rhythm of the Terrace.

Consequently, although it is considered that the proposal would result in some harm in relation to the setting of the listed building it is less than substantial in terms of the tests contained within the NPPF. Therefore paragraph 196 of the NPPF is relevant. This paragraph states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, that this harm should be weighed against the public benefits of the proposal. In this instance the harm is deemed to be minimal and the public benefit would be the addition of a modern tourist facility within a Core Tourism Investment Area, and the associated economic benefits referred to above. The proposal is therefore deemed to have an acceptable impact on the setting of the Grade II listed buildings of The Terrace.

In terms of the proposal's relationship with the Torquay Harbour Conservation Area, the western end of the building would be visible from part of the harbour area but would constitute a small change in appearance and one which is not considered to be of a significant level of harm to the conservation area overall, given the distances involved, changes in ground levels, the presence of intervening buildings, and the design of the building. The proposed solar photovoltaic panel array on the roof of the proposed hotel would not be highly visible in the wider conservation area due to its height and siting.

On balance, accounting for the tests provided within the National Planning Policy Framework where less than substantial harm to designated heritage assets is identified the proposal is considered to be acceptable given the wider public gains in terms of regeneration benefits.

## **5. The impact on amenity**

Policy DE3 requires that all development should provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring or surrounding uses.

The nearest property to the west of the site is No.58 The Terrace, which is currently in commercial use. The properties to the north, 29 & 31 Braddons Hill East and *Marina View* are set at a higher level than the ground level of the car park due to a change in topography. The difference in height is such that the proposal would not result in any harm to the amenities of these neighbours, in terms of their outlook, privacy, or access to natural light.

To the south-east, the properties are at a lower level due to the difference in topography between them and the application site. The proposed hotel building and new ramp access would not result in any unacceptable effects in relation to the amenities of residential occupiers.

It is noted that the distance between the front of the hotel currently under construction to the south of the application site (approved under application P/2014/0965) and the hotel being considered as part of this application would be 15m. This is not an unusual relationship between the fronts of two buildings which are separated by a road and located within an urban location. In this instance both are holiday uses rather than residential and their relationship is considered to be acceptable.

Torbay Councils' Environmental Protection Department have advised that they have no objection to the application being approved subject to a condition being included

requiring the installation of the odour control equipment prior to commencement of use. An appropriate condition is considered necessary to ensure this.

Subject to the use of planning conditions, it is considered that, on balance, the proposed hotel building would have an acceptable effect in relation to local and neighbouring amenity, and would therefore accord with Policy DE3 of the Local Plan.

## **6. Trees, and Ecology**

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features.

The submitted Arboricultural Impact Assessment (AIA) states that nineteen trees are to be removed to facilitate the development. It notes that all trees surveyed have a limited life due to their growing location and lack of space which prevents them from reaching their full potential. However the trees are currently in good condition.

Replacement planting, including an area of wildflower mix, and the management and maintenance of this, as detailed in the submitted landscaping plan, will aim to mitigate the loss of the trees.

The AIA includes details of protective fencing and a construction exclusion zone, this will be required throughout the construction phase and will be conditioned to be implemented and retained as such.

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments and fauna and flora, commensurate to their importance. Policy TE5 of the Torquay Neighbourhood Plan states that, where appropriate, an assessment of impacts upon any existing protected species or habitats should be undertake and the use of necessary mitigating arrangements, in order to protect and enhance species and habitats, should be provided.

Within the supporting text of the Environment section and in Policy TE1 of the Torquay Neighbourhood Plan, it is stated that the addition of new tourism developments will be particularly supported where they make use of brownfield land for the provision of that development, thus reducing pressure on Torquay's environment.

The submitted Ecological Impact Assessment states that there was no evidence of any other protected or notable species were found nor were there any further records of relevant protected or notable species returned by Devon Biodiversity Records Centre (DBRC).

There is however potential for light-tolerant bats to be roosting and/or commuting/foraging within the mature trees of the mixed woodland plantation. No impacts to bat roosts are envisaged as a result of the development.

The loss of a limited area of scrub, young trees and poor semi-improved grassland will result in a small loss of potential bat foraging habitat although this is not considered significant.

The Ecological Impact Assessment recommends the following mitigation and compensation measures required to minimise/ prevent significant impacts to ecological features;

- Provision of additional roosting opportunities for bat through the provision of bat boxes on retained mature trees and/or integrated within the new hotel, for example by using bat bricks
- Provision of nesting opportunities for masonry bees and other invertebrates by incorporating bug-and-bee bricks in to the walls of the hotel; and,
- Include new native species-rich habitats within proposals that supports invertebrates and subsequently enhance foraging opportunities for bats with a landscaping scheme.

A Habitat Regulation Assessment for the site has been undertaken by Torbay Council. This concludes that, in view of the nature of the application and due to the distances to between the site and relevant receptors, that there is not likely to be any Significant Effect on the partially submerged sea caves feature alone or in combination with other proposals or projects.

However, it was concluded that there would be a Likely Significant Effect on the nearby reefs and subsequently may affect the integrity of the Special Area of Conservation (SAC) alone or in combination with other proposals or projects. Therefore a Stage 2 Appropriate Assessment was required with respect of the reefs feature. This concluded that the various mitigation measures within the submitted Construction and Environmental Management Plan (CEMP) will ensure that the likely significant effects on the Marine SAC are avoided. It is therefore concluded that this proposal will not affect the integrity of the Lyme Bay and Torbay Marine SAC.

As the site is over 5ha in area an Environment Impact Assessment screening was undertaken, the result of this was that the proposal did not require an EIA.

In light of the foregoing, the proposal's ecological impacts are considered acceptable, having regard to Policy C4 and NC1 of the Torbay Local Plan Policy TE5 of the Torquay Neighbourhood Plan.

## 7. Flooding and Drainage

Policy ER1 states that development must be safe for its lifetime, taking account of its future use, function and government projections of how the risk of flooding may change in response to climate change. Development proposals will be expected to maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The applicant proposes to deal with surface water run off by discharging to the existing South West Water combined sewer within The Terrace, which receives a majority of surface water runoff from the site in the existing situation. A surface water drainage scheme has been developed, which incorporates attenuation storage, which would be operated in conjunction with Hydrobrake flow control devices designed to limit surface water flows discharged from the site to a maximum rate of discharge of 1.5 l/s. The

surface water drainage scheme would provide sufficient capacity for excess runoff to be stored and attenuated on site up to and including the 1 in 100-year storm return period with 40% allowance for increase in peak rainfall intensity over the lifetime of the development.

The Council's Drainage Engineer and South West Water have raised no objections to this method of drainage, subject to the use of conditions requiring adherence to the submitted drainage and flood risk details.

Subject to the use of the aforementioned condition the proposal is considered to be acceptable, having regard to Policy ER1 of the Torbay Local Plan, the NPPF, and the PPG.

## **8. Highway Impact**

Policies TA2 states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per bedroom plus appropriate provision for coaches is required.

However the site is within the town centre allocation, this policy does not set a parking requirement for town centre sites as it expects that the existing public parking provision will suffice.

The proposal would result in the loss of 83 parking spaces due to the small area required to be demolished. However 495 would be retained with 100 of the spaces being leased to the hotel operator as part of the development, 60 spaces are also to be leased to the operator of the Torwood Street hotel. The submitted Transport Assessment states that the average maximum use of the car park at present is 114 spaces. Therefore, even with the allocated spaces for the hotels there would still be a spare capacity of 221 spaces and in the busiest month (August) there would be a remaining capacity of 26 spaces within the car park.

Given that the site is located in a sustainable location, allocated as being within the town centre, and with cycle and bus routes nearby, the allocated level of 100 parking spaces is considered to be sufficient to comply with Appendix F and Policy TA3 of the Local Plan which state that there is no minimum parking threshold for town centre developments. As previously mentioned, the information submitted in the Transport Assessment also shows that there is additional spare capacity in the car park for guests to use on top of the 100 spaces allocated.

To ensure travel by accessible modes for both staff and guests a condition in relation to the submission and approval of a travel plan prior to the recruitment of staff is deemed necessary.

Suitable cycle storage is provided for guests and staff of the hotel, however there is no provision for people visiting the restaurant. Subsequently a condition requiring details/provision of an external cycle parking loop for restraint guests is recommended.

It is recommended that a no loading restriction is added on the extent of the existing yellow lines to reduce queuing at the Torwood Street junction.

The service entrance is located on the east of the hotel and delivery vehicles will use a new layby adjacent to this elevation. This is considered to be acceptable and will require the appropriate Traffic Regulation Order.

Subject to the aforementioned conditions and traffic regulation order it is deemed that the proposal complies with Policies TA2 & TA3 of the Local Plan and Policies THW1, THW5 and THW6 of the Torquay Neighbourhood Plan.

## **9. Designing out crime**

No objections are raised subject to the use of a condition to secure a scheme of crime prevention measures, such as CCTV. It is recommended that this condition be imposed should planning permission be granted. Subject to the use of this condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and TH2 of the Torquay Neighbourhood Plan

## **10. Sustainability**

The hotel building proposes a 35% reduction in CO2 emissions when compared to the Notional target of Building Regulations Part L England and Wales 2013.

The hotel is also designed to achieve a Very Good rating in BREEAM. BREEAM is an international scheme that provides independent third-party certification of the assessment of the sustainability performance of a building. A rating of Very Good means that the building will be recognised to have reached an advanced level of good practice design and is broadly equivalent to being in the top 25% of UK new non-domestic buildings.

In order to achieve both the 35% reduction in CO2 emissions and a Very Good BREEAM rating a 25kW PV array is to be fitted to the roof to provide on-site energy generation as well as an Air Source Heat Pump boiler to reduce the reliance on gas for hot water generation. The combined effect of these measures results in a 35.3% carbon emission reduction when compared to the baseline level required by UK Building Regulations Part L 2013.

## **11. Community Infrastructure Levy**

The proposal is not CIL liable.

## **12. Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

## **13. Proactive Working**

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.

## **14. Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to improve the core tourism offer would produce a significantly positive impact overall and help with the regeneration of the town. It is acknowledged that there are concerns about the potential impact upon the tourism sector however from the evidence available this does not appear to be significant, and as stated previously business completion in itself is not generally held to be a material planning consideration.

The scheme is however not without some minor negative impacts upon the setting of The Terrace which is a listed building. However, as discussed in the body of the report these impacts are considered to be less than significant and as provided by the NPPF can be weight against the public benefits of the proposal. In this case the benefits are considered to outweigh the less than significant harm.

## **Conclusions**

The proposal would result in the addition of a hotel facility on an underutilised brownfield site within a Core Tourism Investment Area. It is considered that the proposal would deliver visual, economic, and regeneration benefits and none of the harm identified is considered sufficient to outweigh these benefits. The proposal is

considered to be acceptable for conditional approval, having regard to the Development Plan, and all other material considerations.

### **Officer Recommendation**

Conditional approval with final drafting of conditions, and addressing any new material considerations that may come to light, delegated to the Assistant Director of Planning and Transport

### **Conditions**

1. The development shall be undertaken in full accordance with the approved Construction and Environmental Management Plan

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies NC1 and TA1 of the Torbay Local Plan.

2. The development shall be carried out in full accordance with the approved scheme of surface water drainage.

Reason: In the interests of sustainable drainage and in accordance with Policy ER1 of the Torbay Local Plan.

3. No development above damp proof course level shall take place until details of the proposed cladding materials (walls and roof) and openings have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar.

Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan.

4. Prior to the first use of the development hereby approved, details of a lighting strategy relating to the illumination of the building, public realm and associated areas shall be submitted to and approved in writing by the Local Planning Authority. The submitted lighting strategy shall give particular consideration to preventing light intrusion at neighbouring properties, and in relation to bat habitats and flyways. The development shall thereafter be undertaken in accordance with the approved details and shall be retained as such indefinitely.

Reason: To ensure that the architectural quality of the building and its setting is highlighted through an appropriate scheme of lighting and to prevent harm to neighbouring occupiers and bats, and to comply with Policies DE1, DE3, and NC1

of the Adopted Local Plan, and Policy TE5 of the Torquay Neighbourhood Plan.

5. Prior to the first use of the development hereby approved, 5 bat bricks and 5 bug and bee bricks shall be incorporated in to the walls of the hotel (in accordance with manufacturer's instructions for correct siting and installation) and retained at all times thereafter.

Reason: To ensure that the development duly considers protected species and biodiversity, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, and Policy TE5 of the Torquay Neighbourhood Plan.

6. The soft landscaping for the development shall be undertaken in strict accordance with the approved landscaping plan reference 849-SW-01-B. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030.

7. Hard landscaping details shall be submitted for the written approval of the Local Planning Authority prior to the first use of the development. The approved scheme shall be provided prior to the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030.

8. Prior to the first recruitment of staff, a Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall outline measures to encourage the use of non-car, sustainable forms of transportation, including a scheme of implementation. The approved measures shall be undertaken in accordance with the approved scheme of implementation.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030, and Policy THW1 of the Torquay Neighbourhood Plan.

9. Prior to the hotel being brought into use, the parking facilities and electric charging points shown on the approved plans shall be provided and thereafter permanently retained for the parking of vehicles associated with the development hereby approved.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F)

of the Torbay Local Plan 2012-2030.

10. The development hereby approved shall not be brought into use until all relevant highways agreements, such as s278, have been entered into and associated works on the highway carried out to the satisfaction of the Local Highway Authority. This shall include 'no loading' restrictions on the extent of the existing double yellow lines on the Torwood Street junction as well as the works shown on the approved plans.

Reason: To provide safe and sustainable access to, and around, the site for all users in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan

11. Prior to the first use of the development hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

12. Prior to the first use of the restaurant, odour control equipment as detailed in approved documents P20190348-5, P20190348-6, P20190348-7 & P20190348-8 shall be fully installed and thereafter retained for the life of the development.

Reason: In interests of residential amenity and in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

13. Prior to the first use of the development hereby approved, bicycle storage shall be provided in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan, and Policy THW6 of the Torquay Neighbourhood Plan.

14. Prior to the first use of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

15. The development shall be undertaken in full accordance with the recommendations in the Arboricultural Method Statement (reference AIA-TER-19) and the Site Monitoring Visit Schedule. This shall include the erection of the construction

exclusion zone fencing (as shown on drawing TPP-TER-19) prior to plant, machinery and any construction activity on site.

Reason: In interests of visual and residential amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

16. No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030

17. No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, tanks, satellite dishes and external lighting.

Reason: In the interests of the visual amenities of the area, in accordance with policies DE1, DE3 and SS10 of the Torbay Local Plan.

18. Prior to the first use of the development hereby approved, a scheme of measures for designing-out crime shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully installed prior to the first use of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Torbay Local Plan

### **Relevant Policies**

#### *Torbay Local Plan*

DE1 – Design

ER1 – Flood Risk

ER2 – Water Management

NC1 - Protected sites - internationally import

TO1 - Tourism, events and culture

TA2 - Development access

TA3 - Parking requirements  
DE4 - Building heights  
DE3 - Development Amenity  
C4 - Trees, hedgerows and natural landscape  
HE1 – Listed Buildings  
SS1 - Growth Strategy for a prosperous Torbay  
SS4 - The economy and employment  
SS10 – Conservation and the Historic Environment  
SS11 – Sustainable Communities  
TC5 - Evening and night time economy

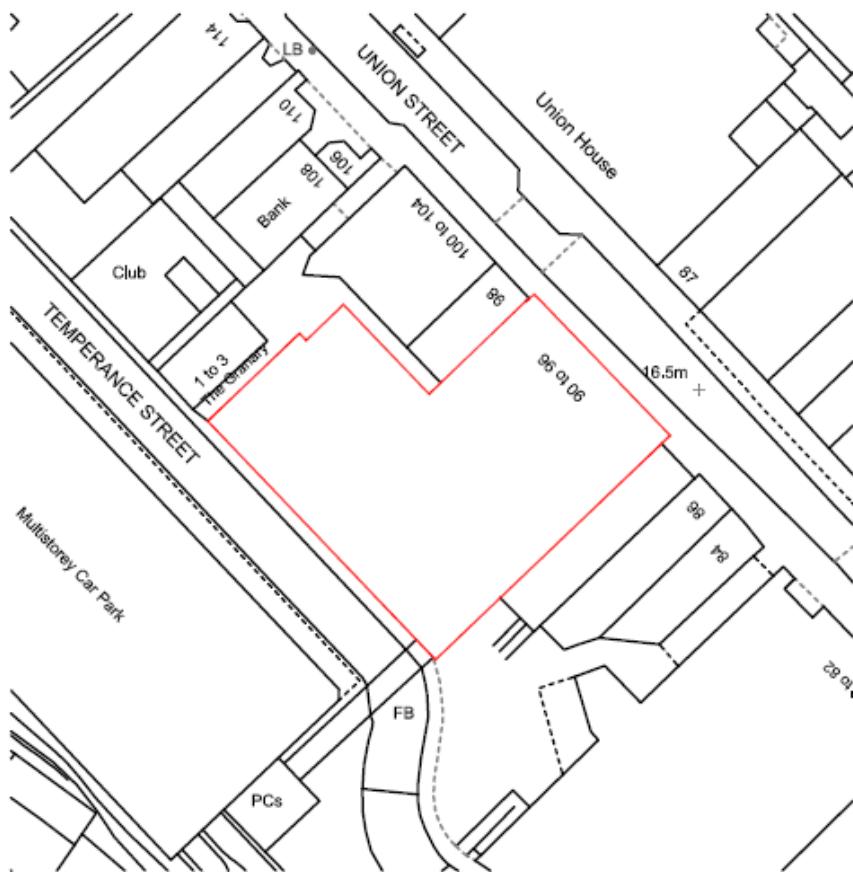
*Torquay Neighbourhood Plan*

TS2 - Master Plans  
TS4 - Support for Brownfield and Greenfield development  
TH2 - Designing out crime  
TH8 - Established architecture  
TH9 - Parking facilities  
TE1 - Tourism accommodation on brownfield sites  
TE5 - Protected species habitats and biodiversity  
THW1 - Travel Plans  
THW5 - Access to sustainable transport  
THW6 - Cycle storage and changing facilities  
TTR2 - Sustainable Communities



Application Site Address	90 - 96 Union Street Torquay TQ1 3YA
Proposal	Change of use from A1 (shops) to D2 (Cinema) including restaurant.
Application Number	P/2019/0358
Applicant	Merlin Cinemas
Agent	Mr Craig Johns – Craig Johns Architecture
Date Application Valid	19/06/2019
Decision Due date	18/09/2019
Extension of Time Date	
Recommendation	Conditional approval, subject to the completion of a legal agreement and resolving any outstanding flood risk matters. The final drafting and addition of conditions, the negotiation and completion of the legal agreement, and addressing any outstanding or new material considerations that may come to light, to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	This is a major planning application.
Planning Case Officer	Robert Brigden

**Location Plan:**



## **Site Details**

The site comprises a three-storey building, formerly in use as a department store, located on the south-western side of Union Street in Torquay town centre. The building includes a sub-surface basement, with three floors above, and forms part of the primary retail frontage. The site also includes part of the covered pedestrian link to Lower Union Lane car park, which is located to the south-west on the opposite side of Temperance Street.

The site is located in Flood Zones 2 and 3.

## **Description of Development**

This planning application proposes the material change of use and internal conversion of an existing retail premises (use class A1), formerly in use as a department store, to a multi-screen cinema (use class D2). The proposal would include the following elements:

- Thirteen screens ranging in size from 23 to 120 seats;
- At basement level: four screens, a party room, kitchen, several store rooms, a staff area, and toilets;
- At ground-floor level: Main entrance from Union Street, kiosk area, three screens, a restaurant, ice cream bar, toilets, and store rooms;
- At first-floor level: six screens, a private bar, offices, and toilets.
- At second-floor level: plant.

According to the submitted information, the proposal would employ ten people on a full-time basis, and forty on a part-time basis. The site does not include dedicated parking, however, there is access to public car parks located in the vicinity, the nearest being Lower Union Lane, which is connected to the site by a covered pedestrian link.

## **Pre-Application Enquiry**

None.

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### **Development Plan**

- The Torbay Local Plan ("The Local Plan")
- The Torquay Neighbourhood Plan

### **Material Considerations**

- National Planning Policy Framework (NPPF)

- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

### **Relevant Planning History**

There is an extensive planning history dating back to the 1970s relating to the site's use as a department store.

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. No representations have been received from the general public.

### **Summary of Consultation Responses**

#### **Torbay Council Strategic Planning:**

*Although the former BHS store is within the primary shopping frontage, it's at the edge of the primary frontage. A cinema is a suitable town centre use, which will enhance the vitality, viability and function of the town centre and is likely to increase footfall up Union Street, as well as bringing a prominent site back into use and contributing to regeneration of the town centre. It will also enhance the night time economy in the area. On this basis, although the proposed cinema introduces a non-Class A1 use into the primary retail frontage, I do not consider that there is a conflict with Policies TC1 or TC4 of the Adopted Torbay Local Plan taken as a whole. Indeed the proposal is likely help regeneration of the town centre. I can't see that the proposal conflicts with the Adopted Torquay Neighbourhood Plan.*

*It may be appropriate to impose a planning condition limiting the use to a cinema (with ancillary food and drink etc. uses) rather than allowing an open Class D2 use. Whilst a range of Class D2 uses would be acceptable, a condition would allow the LPA to retain control over the nature of the use.*

*I believe that flooding and transport issues have been addressed separately. A cinema is a less vulnerable use, but it would be appropriate for resilience measures to be considered.*

*The cinema will operate in the evenings and is also likely to be licenced, so it would be appropriate to seek a contribution for CCTV as per the Planning contributions SPD.*

#### **Drainage Engineer:**

*Comments awaited. Members will be provided with an update during the Planning Committee Meeting.*

**Devon and Cornwall Police:**

*I would like to advise that in the main the police support the proposed change of use, but some strong concerns have been raised by the local policing team, specifically with regard to public safety.*

*The main concern being the area behind the building (Temperance Street into Lower Union Lane) which is dark and an area the police frequently have to attend to deal with drug and criminal related offences and antisocial behaviour. The level of lighting and lack natural and passive surveillance are likely to be contributory factors for the unwanted behaviour and activities to occur.*

*It is my understanding that there is some CCTV in the vicinity but given that the afore mentioned car park is likely to be used by customers of the proposed cinema it is requested that the existing system is either upgraded or a new system is installed with compatible and appropriate lighting. The CCTV should provide good coverage of the rear of the building and all linked pedestrian routes to the car park. These reasonable requests are likely to reduce crime, the fear of crime and ASB and thus encourage its legitimate use.*

*With regard to the car park its self, it is appreciated that this does not form part of the planning application but the police would be reassured if the applicant were willing to make some improvements such as installing CCTV and lighting in the most vulnerable areas of the car park such as the stairwells and the linked pedestrian route, as this would go some way in improving public safety. The police report that the stairwells in the car park are frequently used for drug taking and drug offences with the associated paraphernalia left lying around and the stairs frequently smell of urine. Suitable and regular cleaning of these areas would significantly improve public safety and reduce the fear of crime thus encourage legitimate use and benefit all concerned. It is suggested that perhaps patrols from the night security of the car park could be extended to cover lower union lane?*

*Would there be an option of securing financial contributions from the applicant so these measures can be put in place?*

*To ensure that any new CCTV or upgrades are fit for purpose when measured against the above requirements and any potential risk a clear Passport to Compliance will need to be obtained by the applicant prior to installation so that the system and each camera have a clear purpose and that the needs of the user are being met.*

*Unfortunately I am not in a position to advise how to go about procuring or installing a monitored CCTV system but local accredited and approved CCTV installers can be searched for at: [www.nsi.org.uk](http://www.nsi.org.uk) or [www.ssaib.org](http://www.ssaib.org) .*

*With regard to external lighting this should conform with the requirements of BS5489 2013 where possible. 'On building' bulkhead lights should be positioned so they are out of easy reach and be vandal resistant.*

*It is recommended that all easily reachable external elevations of the building are treated with an anti-graffiti finish.*

*It is noted that little if any is to be altered to the external aspects of the building but wherever possible please ensure that recessed or concealed areas, external doors for example, are avoided, as this will assist greatly in improving surveillance opportunities.*

*In compiling this response I also had to consider counter terrorism advice, specifically in respect of Crowded Places and Hostile Vehicle Mitigation (HVM) and the required safety and security measures in order to protect the public.*

*To remove a straight line approach to the front of the building, which could allow a vehicle to travel at speed in order to penetrate the doors and gain access into the building, vehicle mitigation measures such as installing bollards or planters to PAS 68 tested rating should be considered. These come in a variety of designs and if permanent bollards are not desirable, sliding or retractable bollards could be an alternative option. Further details can be supplied to the applicant if required.*

*Laminated glass would be recommended for the front of the premises/entrance area. Refuse bins should either be securely enclosed or positioned with a stand-off distance from the main building of 30 metres (if possible).*

A condition is requested to secure measures for designing out crime.

### **Torbay Council Strategic Transport**

*Given the Town Centre location of this site it is accessible by sustainable transport with existing walking and cycling opportunities (cycling parking hoops provided immediately in front of the unit), as well as public transport nearby and a taxi rank opposite. Note the public transport provision between Torquay – Paignton – Brixham and Newton Abbot is 24 hours on Friday and Saturday nights. This route uses the main town centre.*

*Policy TA3 (and appendix F) states that there is no specified minimum parking requirement for main town centre uses. It is expected that existing car parks and on-street parking will be sufficient. In this case there are two car parks immediately behind (connected by a direct walkway and separate walkway) and another opposite through the Union Square shopping centre. There is also on street disabled badge holder provision alongside some general provision between 6pm and 8am. However, it should be noted that two of the three adjacent car parks are not open after 7pm which means only the ‘Shoppers’ car park (32 spaces) would be open for the hours of operation. There is another evening use (Bingo Hall) behind the application site which uses those spaces regularly. Although the current use exists within the town centre the situation is slightly different because of the intensification of the use proposed in this application and due to the much greater provision of on street parking in the adjacent to the existing site.*

*The design and access statement submitted with the application recognises that there is parking adjacent and states that as the use would be greater in the evening, there would not be a capacity issue within the car parks as there is little clash with the existing retail offer. I agree with that statement and that no further car parking is required, but it does further emphasise the need to ensure the car park is open in the evening, beyond 7pm.*

*Having discussed with colleagues, it is possible for the Lower Union Lane multi storey (that directly connected with a walkway) to be opened later/all night. This would require the relocation of gates which are already present on the bottom level.*

### **Torbay Council Community Safety**

*I have some concerns regarding the possibility of noise from the new cinema affecting nearby residential properties ie flats above adjacent shops. As such, I would confirm that I have no objections subject to the inclusion of the condition below:*

*No development shall take place until a detailed acoustic report regarding the development has been submitted to and been approved in writing by the Local Planning Authority.*

*The report shall include a scheme of noise insulation measures to protect nearby residential accommodation. The noise insulation measures shall be designed to achieve noise insulation to a standard that nuisance will not be caused to the occupiers of residential accommodation by noise from the showing of films.*

*The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings.*

*The approved scheme shall be implemented prior to the commencement of the use and be permanently maintained thereafter.*

### **Local Highway Authority**

No objections.

### **Torquay Neighbourhood Forum**

No comments received.

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

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Local and Residential Amenity
4. Access Arrangements and Parking
5. Designing Out Crime
6. Flood Risk and Drainage

## **Planning Officer Assessment**

### **1. Principle of Development**

The proposal is for the change of use of retail premises (A1) to a cinema (D2), with ancillary elements such as a restaurant and private bar.

Policy TC1 of the Local Plan states that: “*all future growth in retail and town centre uses should follow a town centre first approach, resisting out-of-town and out-of-centre retailing that would harm the vitality and viability of town centres.*”

Policy TC4 of the Local Plan states that within primary shopping areas and primary frontages, premises should predominantly be A1 retail uses, although A2 (financial and professional services) and A3 (restaurants and cafes) uses may also be permitted where they support the vitality and retail function of the area. However, this policy is also clear that changes of retail use in town centres can be acceptable in principle providing that they are of a scale and type appropriate to the centre in question, and where changes do not:

1. *Undermine the vitality, viability or character of the centre as a whole;*

The NPPF includes cinemas in its definition of main town centre uses and the proposal in question would occupy a currently vacant building. It is considered that the proposal would contribute positively to the vitality and viability of the town centre by providing an enhanced entertainment facility and tourism attraction. The proposal would be a larger and more modern version of the existing cinema located at Abbey Road, which the applicant would vacate to occupy the proposed facility. The character of the area would not be adversely affected as no significant external changes are proposed to the building.

2. *Cause unacceptable fragmentation and isolation of retail premises;*

Most of the premises located along the south-western side of Union Street are in A1 retail use and the proposal would not result in an unacceptable level of fragmentation or isolation of retail premises.

3. *Result in the over-dominance of non-retail uses within a frontage or centre.*

The majority of premises in the vicinity of the site are retail uses and it is therefore considered that the proposal would not result in an over-dominance of non-retail uses. Whilst the Torquay Neighbourhood Plan does not include any town centre policies, the proposal is considered to be in accordance with its aspirations, which includes enhancing the vibrancy of Torquay town centre.

As Use Class D2 includes other uses that may be less appropriate in the location

under consideration, and that a change to another D2 use would be permitted development, it is recommended that a planning condition be imposed to prevent this.

The proposal is considered to be acceptable in principle.

## **2. Impact on Visual Amenity**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character in terms of height, scale, and bulk; and reflect the identity of its surroundings.

The proposal would result in very minor changes to the external appearance of the application building, mainly comprising advertisement signs that would require separate consent. Any measures required to enhance security at or near the site, such as CCTV, lighting, and counter-terrorism measures, are capable of being designed in a way that would not result in unacceptable visual harm. The proposal would bring a disused building back to life and, in this sense, would result in a visual improvement.

Conditions and planning obligations are recommended to secure the details of necessary security measures and enhancements to the pedestrian link connecting Union Street to the Lower Union Lane car park.

Subject to the use of these conditions, given the proposal's visual appearance, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality, in accordance with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

## **3. Impact on Local Residential Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

It appears that there are some dwellings located above shops in the vicinity of the site, and it is noted that the Local Plan and Neighbourhood Plan support the inclusion of such uses within the town centre, meaning that new residential properties could come into being in future near to the site. The level of amenity to be expected within an existing, busy town centre would be limited by the need to allow the centre to function effectively as a commercial, entertainment, and retail hub. Nevertheless, potential harm to neighbouring occupiers does need to be given consideration. The proposed cinema would make use of audio equipment, and it is noted that the proposal would

also include an ancillary restaurant and private bar, which would make up a small proportion of the overall building and would be linked to the main use as a cinema. The private bar, for example, is intended for cinema-related events.

The Council's Community Safety officers have raised no objections to the proposal subject to the use of a planning condition to secure the approval of an acoustic report with associated sound mitigation measures. This is intended to ensure that any noise generated by the proposal, through the use of audio equipment and in other respects, would not result in any unacceptable harm to existing or future residential uses located nearby, for instance, to the occupiers of any flats located above shops. It is recommended that this condition be imposed should planning permission be granted.

The proposal would give rise to potential noise impacts as a result of cinema-goers coming and going, however, the bulk of this activity is likely to be limited to day-time and early-mid evening hours. The latest film showings at the Vue cinema in Paignton are typically around 2130 at the weekends, and this is consistent with cinemas elsewhere. Even at that time of day, the number of films being screened is usually limited. As such, the outdoor activity at the site is likely to diminish considerably as evenings progress, with customers dispersing from the area, and any harm caused would need to be considered in the context of the site's town centre location. Policy TC5 of the Local Plan supports the principle of development that helps create a vibrant, diverse evening and night-time economy within town centres, and the proposal is considered to be consistent with this policy and its requirements.

The applicant has requested opening hours of 0800 to 0300 daily. It seems unlikely that the proposal would regularly open at the earlier and later ends of this range; the hours have been requested to allow the facility flexibility to hold special events from time to time where there is demand. The Council's Community Safety officers have raised no objections to this, and a condition is recommended to limit the opening hours to those requested. The proposed private bar and restaurant (if alcohol is sold) would be subject to a separate licencing regime, which may limit their opening hours further.

Additional security measures within the public realm and enhancements to the pedestrian link connecting the site to a neighbouring car park will be secured through the use of planning conditions and obligations, and are discussed further on in this report.

Subject to the use of the aforementioned conditions, it is considered that the proposal would not result in unacceptable harm to local or residential amenity and, as such, is in accordance with Policy DE3 of the Torbay Local Plan.

#### **4. Access Arrangements and Parking**

Policy TA3 (and appendix F) of the Local Plan states that there is no specified minimum parking requirement for main town centre uses. The site is located in a highly

sustainable and central location, with easy access to public transport, taxis, and public parking facilities. It is noted that the nearest public car parks currently close at 1900 and that this would limit the parking provision available to the proposal during the evening hours. The Council's Strategic Transport officers have raised no objections to the proposal subject to the nearest car park, at Lower Union Lane, being adapted to allow additional parking beyond the current closing time. This upper floors of this car park are currently gated off beyond 1900, leaving only the first-floor and an adjoining street-level car park for public use, and these would need to serve other facilities in the area during the evenings, in addition to the proposed cinema.

The Lower Union Lane car park is owned by the Council and it is understood that adjustments can be made to allow the upper levels of the car park to open later. It is anticipated that a financial contribution would need to be secured to allow for the necessary changes. A condition is also recommended to secure the details of a car parking management strategy, to ensure that the cinema is not brought into use until acceptable parking arrangements have been negotiated and agreed with the Council.

Subject to the use of these conditions and obligations, it is considered that the proposal would have adequate access and parking arrangements, in accordance with Policies TA2 and TA3 of the Torbay Local Plan, and Policy TH9 of the Torquay Neighbourhood Plan.

## **5. Designing out Crime**

Devon and Cornwall Police have raised no objections but have outlined concerns about safety and security in the vicinity of the site, particularly during the evening and night-time hours. The Police support the proposal in principle, subject to the provision of enhanced security measures, namely external lighting and CCTV, along with counter-terrorism measures to the front of the proposed entrance. The latter are likely to comprise bollards or similar obstructions to prevent vehicles being driven into the building's entrance, along with the use of laminated glazing.

Conditions are recommended to secure details of improved CCTV and external lighting provision in and around the site, along with counter-terrorism measures, which will need to be installed prior to the proposal being brought into use. A condition is also recommended to secure enhancements to the pedestrian link, which runs through the site from Union Street towards the Lower Union Lane car park. This link is currently in a poor state of repair. Further to these conditions, financial contributions should also be secured, through the completion of a legal agreement, towards the enhancement of that part of the pedestrian link owned by the Council (the western part of the link), and the provision of CCTV and lighting within the linked car park and public realm, as appropriate.

Subject to the use of these conditions and the completion of a legal agreement to secure the aforementioned obligations, it is considered that the proposal would be

sufficiently safe and secure for its future users and would adequately design-out opportunities for crime and anti-social behaviour.

## **6. Flood Risk and Drainage**

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. The site is located within Flood Zones 2 and 3, and a site-specific flood risk assessment has been provided.

The proposed development is considered to be appropriate in this location and there are no sequentially preferable locations given the nature of the proposed use and its location. Having regard to the sequential test, the proposal is considered acceptable and in accordance with national planning policies and guidance.

Advice is still awaited from the Council's Drainage Engineer in relation to the safety of the proposal. Members will be provided with an update during the Planning Committee meeting, however, as acceptable drainage arrangements are likely to be achievable in principle, it is recommended that this matter be delegated to planning officers to resolve following the committee meeting.

### **Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

Planning permission should only be granted subject to the completion of a legal agreement to secure:

- A financial contribution towards the cost of enhanced lighting and CCTV in that part of the pedestrian link owned by the Council, and in/around the Lower Union Lane carpark and otherwise within the public realm, as required.
- A financial contribution towards the physical enhancement of that part of the pedestrian link owned by the Council.
- A financial contribution towards the cost of making alterations to the car park to allow for later night parking.

### **EIA**

Due to its scale, nature and location this development will not have significant effects on the environment, and therefore is not considered to be EIA development.

### **Sustainability**

The proposal is located in a central and sustainable location, within walking distance of other town centre facilities and nearby residential areas, and easily accessible by public transport. The proposal would make use of an existing, vacant building within the built up area.

### **Planning Balance**

The proposal would have a positive effect in relation to the vibrancy and vitality of Torquay town centre, providing an enhanced entertainment facility in a central and easily accessible location. No unacceptable harm has been identified, subject to the use of conditions and obligations, which would also ensure acceptable arrangements in relation to public security and parking provision.

### **Conclusions and Reasons for Decision**

The proposal would contribute to the vibrancy of Torquay town centre, would not result in any unacceptable harm in terms of amenity or the character of the area. Acceptable arrangements can be achieved in relation to parking and access, along with security measures. Subject to the resolution of the outstanding flood risk matters, the completion of a legal agreement to secure the aforementioned obligations, and adherence to the conditions outlined below, the proposed development is considered acceptable, having regard to the adopted Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

Conditional approval, subject to the completion of a legal agreement and resolving any outstanding flood risk matters. The final drafting and addition of conditions, the negotiation and completion of the legal agreement, and addressing any outstanding or new material considerations that may come to light, to be delegated to the Assistant Director of Planning and Transport.

### **Conditions or Refusal reasons**

### **Limit to use as Cinema**

The premises shall be used as a cinema and for no other purpose (including any purpose in Class D2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification).

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that order with or without modification) no development consisting of the change of use of the premises to any other use shall be carried out.

Reason: To ensure the use of the premises is appropriate in the town centre, and in accordance with Policy TC4 of the Torbay Local Plan.

### **Noise**

Prior to the first use of the cinema hereby approved, all necessary sound attenuation shall be fully installed in accordance with a detailed acoustic report have been submitted to and approved in writing by the Local Planning Authority.

The report shall include a scheme of noise insulation measures to protect nearby residential accommodation. The noise insulation measures shall be designed to achieve noise insulation to a standard whereby nuisance will not be caused to the occupiers of residential accommodation by noise from the showing of films.

The noise assessment shall be carried out by a suitably qualified acoustic consultant/engineer and shall take into account the provisions of BS 8233: 2014 Guidance on sound insulation and noise reduction for buildings.

Once installed, the sound approved sound insulation measures shall be retained for the life of the development.

Reason: In order to safeguard the amenities of nearby occupiers, in accordance with Policy DE3 of the Torbay Local Plan.

### **Enhancement of pedestrian link**

Prior to the first use of the development hereby approved, a scheme of enhancements to the public pedestrian link, running through the site from Union Street, shall be completed in accordance with details that have previously been submitted to and approved in writing by the Local Planning Authority. The pedestrian link shall thereafter be retained as such.

Reason: In the interests of local amenity and to provide acceptable access to the neighbouring public car park, in accordance with Policies DE3 and TA3 of the Torbay Local Plan.

### **Designing-Out Crime**

Prior to the first use of the development hereby approved, a scheme of measures for designing-out crime shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include enhanced security measures, including external lighting and CCTV, and counter-terrorism measures relating to the main entrance of the proposal. The approved measures shall be fully installed prior to the first use of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Torbay Local Plan.

### **Operating Hours**

The use hereby approved shall only be open to the public between the hours of 0800hrs and 0300hrs daily.

Reason: In the interests of local amenity and in accordance with Policy DE3 of the Torbay Local Plan.

### **Parking**

Prior to the first use of the development hereby approved, a car parking management strategy shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall evidence the availability of public car parking to serve the development during the proposed operating hours, including an agreement between the developer/operator and the Council for the provision of additional evening parking within the Lower Union Lane car park. The use shall thereafter be operated in accordance with the approved details.

Reason: To ensure adequate parking provision in accordance with Policy TA3 of the Torbay Local Plan.

### **Informative(s)**

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. 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.

### **Relevant Policies**

DE1 – Design

DE3 – Development Amenity

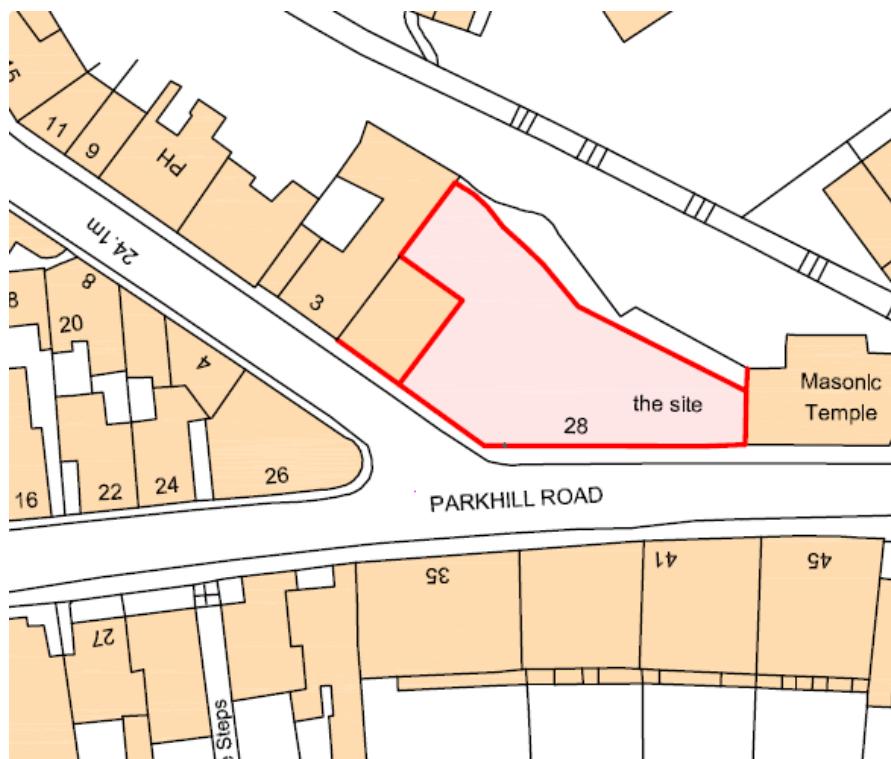
ER1 – Flood Risk

NC1 – Biodiversity and Geodiversity  
TA1 – Transport and Accessibility  
TA2 – Development Access  
TA3 – Parking Requirements  
TC1 – Town Centres  
TC4 – Change of Retail Use  
TC5 - Evening and night time economy  
TH8 – Established Architecture  
TH9 – Parking Facilities

# Agenda Item 10



Application Site Address	Former Torwood Conservative Club 28 Parkhill Road Torquay TQ1 2AR
Proposal	Change of use from conservative club to 3 self-contained dwellings
Application Number	P/2019/0423/PA
Applicant	Mr J O'Dwyer
Agent	Mr Rob Boulton – Parkes Architecture and Design
Date Application Valid	24.04.2019
Decision Due date	20.06.2019
Extension of Time Date	16.08.2019
Recommendation	That Planning Permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the applicant is a local ward councillor and the proposal is not considered to be minor in nature.
Planning Case Officer	Ross Wise



## **Site Details**

The application site is the former Torwood Conservative Club, 28 Parkhill Road, Torquay. The application site comprises of a complex of buildings, currently vacant, but that have previously been in commercial use. The application site is composed of three elements. A central section and a series of extensions that physically connect to two adjacent listed buildings, No.1 Meadfoot Lane and the Freemasons Lodge of St John. The central section of the building, not listed in itself, is mentioned within the Torquay Harbour Conservation Area Appraisal (CAA) as forming a key building and/or building groups of architectural importance or which make a significant contribution to the townscape. Also mentioned for similar reasons within the CAA are buildings within a terrace that are located directly opposite the application site.

## **Description of Development**

The proposal seeks to change the use of the former Conservative Club and form three self-contained dwellings, including one single-storey, two-bedroom unit and two two-storey units of two and three bedrooms. Each of the dwellings would have their own amenity spaces and two of the dwellings would share a main entry point from the public highway, with separate private access to each dwelling after this point. Only one of the proposed dwellings would have allocated parking, with associated development for this element approved under previous applications P/2018/1118/PA and P/2018/1119LB.

The proposal seeks to remove previous extensions of the property that currently form the entrance canopy/lobby to the north-west elevation. Additionally, the flat roof extension to the rear would be removed in order to create amenity space for each of the proposed units. Existing blocked apertures are to be re-opened with timber doors and windows inserted within the openings. An increase in ridge height of the stone-faced, pitch-roofed building that adjoins the central two-storey structure is proposed to facilitate the addition of a second floor. The roof would be finished in slate to match the adjoining building. A range of internal alterations would be undertaken to convert the building into three dwellings. Bin and secure cycle storage would be provided for each of the proposed dwellings.

## **Pre-Application Enquiry**

N/A

## **Relevant Planning Policy Context**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Torquay Neighbourhood Plan

## Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## Relevant Planning History

P/2018/1118/PA. Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18). Approved 14.02.2019

P/2018/1119/LB Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18). Approved 14.02.2019

## Summary of Representations

The application was publicised through a site notice and neighbour notification letters.

0 objections and 0 letters of support were received.

2 objections were received in relation to the associated Listed Building Consent application, but appear to concern planning matters:

Concerns raised include:

- Impact on parking.
- Overdevelopment.
- Loss of privacy.

## Summary of Consultation Responses

**Historic England:** *On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.*

**Torbay Council Heritage Advisor:** *The proposal concerns significant alterations to a listed building, and key building in a Conservation Area.*

*The listed building concerned is the Grade II building 1 Meadfoot Lane listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 entry number 1292372. This listing reads as follows:*

*House. c1840s, disused and boarded up on survey. Plastered; slate roof; stacks with rendered shafts with platbands. PLAN: Overall L-plan. Rectangular main block, cross wing to right. EXTERIOR: 2 storeys. 3-bay front. Deep eaves on brackets. C20 central front door with opening immediately above described in 1975 list as "marginal glazed casement". Ground-floor window right 12-pane horned sash. Other windows boarded*

(described as "glazing bar sashes" in 1975 List). First-floor window right was a bowed French window giving onto a balcony, still *in situ*, with a decorative cast-iron balustrade. **INTERIOR:** Not inspected.

The listing description is not particularly helpful however, the proposed scheme is sensitively designed, will remove some very unsightly and unsympathetic additions to the building, including a canopy and flat roofed extension which are physically attached to the listed building. The removal of these items are a major positive step and are fully supported. Internally the ground floor layout is amended to accommodate a proposed residential use in place of the club office, toilets and snooker room. Whilst this involves creating a new link internally it is considered that there is no resultant harm to the listed building. Overall this element of the scheme is considered to represent an enhancement of the building.

The right hand side of the club building (when viewed from the street) is curious in terms of its architecture and is clearly of some age and is located within the Torquay Harbour Conservation Area. This section of the building arrangement is of a raised stone faced construction with circular windows surrounded by bath stone and is quite rightly noted in the Conservation Area Appraisal as forming a key building and/or building groups of architectural importance or which make a significant contribution to the townscape.

Again the proposed scheme is sympathetic and the public face of this element will in effect be restored, whilst the rear and side elevation will benefit from the removal of the canopy and extension referred to above.

The final element of the proposal concerns the removal of a section of a corrugated roofed building which currently attaches the club to the listed Freemason's Lodge, which is an attractive and architecturally ornate building. The separation proposed is considered to be positive however the renovation of the exposed Lodge wall will need to be handled with care and as such a condition should be imposed requiring details of this work to be approved. The remaining link building is proposed to be amended and replaced with a larger slate roof. On balance this revision is considered to represent an enhancement to the Conservation Area.

In conclusion the proposed alterations balanced against the considerable gains in terms of removing inappropriate additions is considered to be positive in terms of heritage impacts. Conditions should be imposed provided suitable details of any new fenestration, materials and railing details.

**Local Highway Authority:** Whilst the proposed buildings are just outside the Town centre, and the off road parking spaces do not comply with the requirements of the Local Plan. As the site is close to local car parks, walking distance to the Town Centre and main Bus routes and would probably have less trips than its use as a Conservative Club, Highways would have no objections.

## **Key Issues/Material Considerations**

1. Principle of Development.

2. Impact on Visual Amenity.
3. Impact on Heritage Assets.
4. Impact on Residential Amenity.
5. Impact on Highway Safety.
6. Flood Risk and Drainage.
7. Sustainability.

## **Planning Officer Assessment**

### **1. Principle of development**

The proposal is for the material change of use of Torwood Conservative Club (*Sui Generis*) to three separate dwellings (use class C3).

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed. There is no policy conflict identified with regard to the principle of the proposed development.

### **2. Impact on Visual Amenity**

The National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. In addition, it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 Design of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character and reflect the identity of its surroundings.

Much of the building's external appearance, with regard to the street-scene, would remain as currently exists. The existing entrance to the Club and the previously approved part-demolition and creation of a parking space being the main changes to the street-scene elevation. These two interventions would remove previous extensions of the building and are considered to result in an improvement in the visual appearance of the building. It is recommended that the planning conditions associated with the previously approved parking space, located adjacent to the Freemasons Lodge of St John, be employed again should planning permission be granted, to ensure continuity and coherence.

The proposal is considered to improve the visual quality of the site through the restoration and re-use of vacant buildings. Additionally the proposed materials to be used are considered appropriate and would preserve and enhance the visual amenity of the building and locality. Conditions are recommended to secure the details of

boundary treatment, hard and soft landscaping, refuse and cycle storage, openings, and cladding materials.

Subject to the conditions being met, the proposal is considered to be acceptable with regard to Policy DE1 of the Local Plan and TH8 of the Torquay Neighbourhood Plan.

### **3. Impact on Heritage Assets**

Policy SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses. Policy TH10 of the Torquay Neighbourhood Plan support alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

The Council's Heritage Advisor has commented that the proposed scheme is sympathetic to the listed elements and the conservation area. It is noted that the public face of the building(s) will be restored, whilst the rear and street elevations will benefit from the removal of the canopy and extension. As mentioned previously the planning conditions concerning the previously approved parking space are also recommended in this case to ensure there are no adverse impacts to the heritage assets.

It should be noted that during the course of the application the proposal has been modified. The proposal originally sought to install white uPVC windows and doors within the south-east elevation within existing apertures to be re-opened. Following negotiation, the plans have now been amended to include timber replacement doors and windows that are considered to preserve and enhance the character of the heritage assets.

Subject to the previously mentioned conditions being adhered to, the proposal is considered to have an acceptable impact on heritage assets as the proposal would reuse and refurbish the majority of the existing building, remove unsightly additions and use of high quality materials. It is considered that there would not be any harm to heritage assets. As such the proposal is considered to be in accordance with Policies SS10 and HE1 of the Local Plan and Policy TH10 of the Torquay Neighbourhood Plan.

### **4. Impact on Residential Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Table 23 in the Local Plan details Dwelling Space Standards for each dwelling type. Each of the proposed self-contained dwellings within the site would exceed the minimum space requirements and Gross Internal Area (GIA) for their dwelling type and capacity. Proposed Unit 1 would have a GIA of 107sqm which for its dwelling type (2 bed, 4 person, 1 storey) would exceed the requirements of 79sqm by 28sqm.

Proposed Unit 2 (3 bed, 5 person, 2 storey dwelling), has a GIA of 115sqm, where the requirements for this type of dwelling is 93sqm, again the proposed unit would exceed the standard. Finally, proposed Unit 3 (2 bed, 3 person, 2 storey) would measure 79sqm with regard to its Gross Internal Area, where this dwelling type is required to have a GIA of 70sqm.

Following negotiation, each of the proposed habitable rooms are now considered to provide adequate outlook and levels of natural light for future occupiers.

In relation to outdoor space provision, each of the units exceeds the respective 20sqm and 10sqm requirements of Policy THW4 of the Torquay Neighbourhood Plan relating to the amount that should be provided for a house or a flat/apartment. Unit 1 would have approximately 42.4sqm; Unit 2 would have approximately 35sqm; and Unit 3 would have approximately 41sqm. It is noted that only proposed Unit 3 has any denoted soft landscaping for planting. Proposed units 1 and 2 would have access to a communal area of planting at the main access point from Parkhill Road. Additionally, both would have sufficient areas within their individual private amenity spaces to facilitate additional planting. Due to the site's location, all of the proposed units would be within an easy walk of a public park and the harbourside/waterfront area.

Although there has been a neighbour objection based on a perceived loss of privacy, there are no additional windows proposed within the street-facing elevations. All windows relating to the street elevations are existing and are not considered to present any unacceptable instances of overlooking or adverse impacts on neighbouring residential amenity, given the separation distances involved and the urban nature of the locality. No unacceptable harm has been identified in relation to the amenities of neighbours in terms of their outlook, privacy, or access to natural light.

The proposal is considered acceptable having regard to Policy DE3 of the Local Plan, Policy THW4 of the Torquay Neighbourhood Plan, and guidance contained within the NPPF.

## **5. Impact on Highway Safety**

Policies TA2 and TA3 of the Local Plan establish criteria for the assessment of development proposals in relation to access arrangements and vehicle parking. Policy TH9 of the Torquay Neighbourhood Plan states that all new housing development must meet the guideline parking requirements contained within the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future. Policy THW5 of the Torquay Neighbourhood Plan supports new development proposals where they are located on or near to public transport routes wherever possible and appropriate.

It is noted that the impacts relating to the parking space for proposed Unit 3 have already been considered and approved by the Council as part of two previous

applications P/2018/1118/PA and P/2018/1119/LB. Therefore, they will not be discussed as part of this assessment.

It is noted that there is no provision of parking for the established use. Members visiting the Club would have to utilise locally available parking facilities (either on-street parking or using the Meadfoot Road car park) or travel using public or sustainable transport (walking, cycling, etc.). The submitted design statement has identified the existing requirement as being 11 vehicle spaces, not including parking for staff and access for deliveries. This has been based on a rate of 1 space per 25sqm and has been generated based on the associated public accessible areas of the site.

Using appendix F of the Local Plan, the parking required for the proposed development would be for six spaces. One space has been detailed within the proposal. As mentioned by the Local Highways Authority, the site's location is such that it is within walking distance of the Town Centre and local car parks. The proposal would include the provision of secure cycle storage within each of the associated amenity areas for each unit. The installation of these can be secured through the use of a planning condition. Additionally, there would be no increase in the demand for on-street parking arising from the development compared to the existing situation, if anything, there would be a significant decrease in parking demand. In light of the above, it is considered that the shortfall in parking spaces to be provided in relation to Policy TA3, is acceptable given that the impact on highway safety amenity is likely to be improved by the proposed development.

Subject to the conditions being met, the proposal is considered to be acceptable with regard to Policies DE3, TA2 and TA3 of the Local Plan and Policies TH9 and THW5 of the Torquay Neighbourhood Plan.

## **6. Flood Risk and Drainage**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The proposal would not result in the creation of any additional impermeable surface and so would require no conditions on drainage grounds.

The proposal is considered to be acceptable with regards to Policies ER1 and ER2 of the Local Plan.

## **7. Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The proposal is considered to make sustainable use of land by re-using an existing structure to provide new dwelling units. This reduces the pressure to develop greenfield sites, and promotes urban regeneration. The site's central town centre location in itself promotes sustainable forms of transport as locally available services are within easy walking distance, removing the need for additional car journeys.

Additionally secure bicycle storage has been included within the proposal, as a method of promoting sustainable transport options.

### **Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

#### **S106/CIL –**

S106:

Not applicable, subject to the use of a planning condition to ensure the facility serves local residents only.

CIL:

The CIL liability for this development is Nil.

#### **EIA/HRA**

**EIA:**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

### **Planning Balance**

The proposal is considered to represent an appropriate and beneficial use which will give both the listed building and a key building in the Conservation Area a sustainable future. The alterations in terms of design and heritage impact are considered to be acceptable. Whilst concern has been raised in respect of Impact on parking, over

development and loss of privacy, these issues are addressed in the main body of the report and are not considered to be so significant as to warrant a refusal of planning permission.

### **Conclusions and Reasons for Decision**

The proposal would provide much needed housing and bring a vacant building back into use, helping to restore and enhance heritage assets in a manner that would not be injurious to neighbouring amenity, highway safety, flood risk, or ecology. The proposal is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That Planning Permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

### **Conditions or Refusal reasons**

#### **Materials**

No development above damp proof course shall take place until details of the proposed use of external building materials (including samples) have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Torquay Harbour Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

#### **Landscaping**

No development shall take place until details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be installed prior to the development being brought into use, and shall thereafter be retained for the life of the development.

Reason:

In the interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

## **Railings**

Prior to the installation of the railings hereby approved, a sample or technical detail of the railings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall be retained as such thereafter.

Reason: In the interest of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

## **Windows/Doors**

Prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority, which seek to respond to the positive aspects of the local prevailing character of the area:

- Sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Torquay Harbour Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

## **Bicycle Storage**

Prior to the first occupation of the development hereby approved, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

## **Boundary Treatment**

Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Refuse Storage**

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

### **Provision of Parking Space**

The dwellings hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the plan referenced "Proposed Floor Plans" have been provided. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

### **Relevant Policies**

DE1 - Design

DE3 – Development Amenity

HE1 – Listed Buildings

SS10 – Conservation and the historic environment

TA2 – Development access

TA3 – Parking requirements

ER1 – Flood risk

ER2 – Water management

TH8 – Established architecture.

TH9 – Parking facilities.

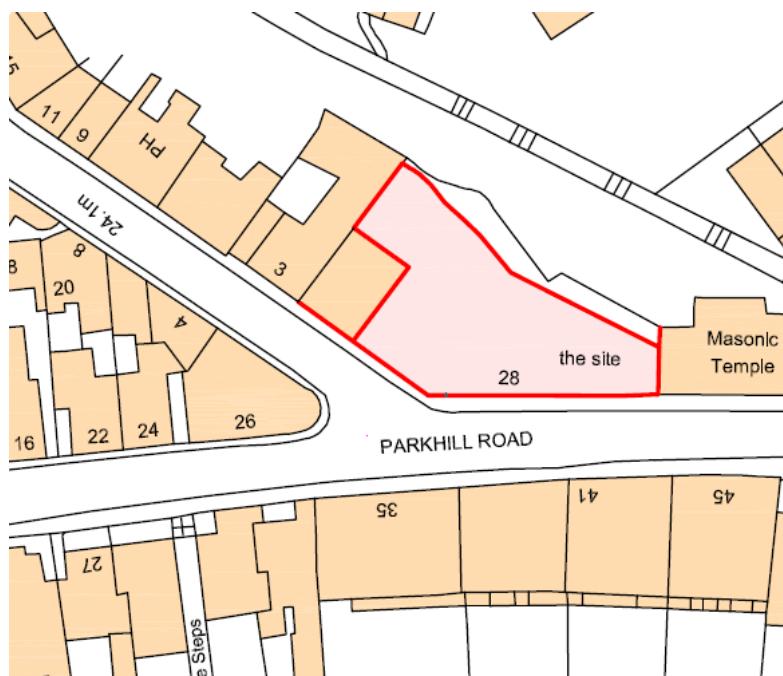
TH10 – Protection of the historic built environment.

THW4 – Outside space provision.

THW5 – Access to sustainable transport.



Application Site Address	Former Torwood Conservative Club 28 Parkhill Road Torquay TQ1 2AR
Proposal	Change of use from conservative club to 3 self-contained dwellings
Application Number	P/2019/0424/LB
Applicant	Mr J O'Dwyer
Agent	Mr Rob Boulton – Parkes Architecture and Design
Date Application Valid	24.04.2019
Decision Due date	20.06.2019
Extension of Time Date	16.08.2019
Recommendation	That Listed Building Consent is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the applicant is a local ward councillor and the proposal is not considered to be minor in nature.
Planning Case Officer	Ross Wise



## **Site Details**

The application site is the Former Torwood Conservative Club, 28 Parkhill Road, Torquay. The application site comprises of a complex of buildings, currently vacant, but that have previously been in commercial use. The application site is composed of three elements. A central section and a series of extensions that physically connect to two adjacent listed buildings, No.1 Meadfoot Lane and the Freemasons Lodge of St John. The central section of the building, not listed in itself, is mentioned within the Torquay Harbour Conservation Area Appraisal (CAA) as forming a key building and/or building groups of architectural importance or which make a significant contribution to the townscape. Also mentioned for similar reasons within the CAA are buildings within a terrace that are located directly opposite the application site.

## **Description of Development**

The proposal development is for the change of use of the former Conservative Club and form three self-contained dwellings, including one single-storey two bedroom unit and two two-storey units of two and three bedrooms. This application for listed building consent seeks approval for proposed works affecting the fabric of the listed buildings.

The proposal seeks to remove previous extensions of the property that currently form the entrance canopy/lobby to the north-west elevation. Additionally, the removal of the flat roof extension to the rear would be removed, not visible from the public highway, in order to create amenity space for each of the proposed units. Existing blocked apertures are to be re-opened with timber doors and windows inserted within the openings. An increase in ridge height of the stone-faced pitched-roof building that adjoins the central two-storey structure is proposed to facilitate the addition of a second floor. The roof would be finished in slate to match the adjoining building. A range of internal alterations would be undertaken to convert the building into three dwellings. Bin and secure cycle storage would be provided for each of the proposed dwellings.

## **Pre-Application Enquiry**

N/A

## **Relevant Planning Policy Context**

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Torquay Neighbourhood Plan 2012-2030

## **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report:

## **Relevant Planning History**

P/2018/1118/PA. Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18). Approved 14.02.2019

P/2018/1119/LB Demolition of section of the building, formation of parking space, replacement roof material, installation of balustrading and gates (Revised plans received 18/12/18). Approved 14.02.2019

## **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters.

2 objections and 0 letters of support were received.

Concerns raised include:

- Impact on parking.
- Overdevelopment.
- Loss of privacy.

## **Summary of Consultation Responses**

**Historic England:** *On the basis of the information available to date, we do not wish to offer any comments. We suggest that you seek the views of your specialist conservation adviser.*

**Heritage Advisor:** *The proposal concerns significant alterations to a listed building, and key building in a Conservation Area.*

*The listed building concerned is the Grade II building 1 Meadfoot Lane listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 entry number 1292372. This listing reads as follows:*

*House. c1840s, disused and boarded up on survey. Plastered; slate roof; stacks with rendered shafts with platbands. PLAN: Overall L-plan. Rectangular main block, cross wing to right. EXTERIOR: 2 storeys. 3-bay front. Deep eaves on brackets. C20 central front door with opening immediately above described in 1975 list as "marginal glazed casement". Ground-floor window right 12-pane horned sash. Other windows boarded (described as "glazing bar sashes" in 1975 List). First-floor window right was a bowed French window giving onto a balcony, still in situ, with a decorative cast-iron balustrade. INTERIOR: Not inspected.*

*The listing description is not particularly helpful however, the proposed scheme is sensitively designed will remove some very unsightly and unsympathetic additions to the building, including a canopy and flat roofed extension which are physically attached to the listed building. The removal of these items are a major positive step and are fully supported. Internally the ground floor layout is amended to accommodate*

*a proposed residential use in place of the club office, toilets and snooker room. Whilst this involves creating a new link internally it is considered that there is no resultant overall harm to the listed building. Overall this element of the scheme is considered to represent an enhancement of the building.*

*The right hand side of the club building (when viewed from the street) is curious in terms of its architecture and is clearly of some age and is located within the Torquay Harbour Conservation Area. This section of the building arrangement is of a raised stone faced construction with circular windows surrounded by bath stone and is quite rightly noted in the Conservation Area Appraisal as forming a key building and/or building groups of architectural importance or which make a significant contribution to the townscape.*

*Again the proposed scheme is sympathetic and the public face of this element will in effect be restored, whilst the rear and side elevation will benefit from the removal of the canopy and extension referred to above.*

*The final element of the proposal concerns the removal of a section of a corrugated roofed building which currently attaches the club to the listed Freemason's Lodge, which is an attractive and architectural ornate building. The separation proposed is considered to be positive however the renovation of the exposed Lodge wall will need to be handled with care and as such a condition should be imposed requiring details of this work to be approved. The remaining link building is proposed to be amended and replaced with a larger slate roof. On balance this revision is considered to represent an enhancement to the Conservation Area.*

*In conclusion the proposed alterations balanced against the considerable gains in terms of removing inappropriate additions is considered to be positive in terms of heritage impacts. Conditions should be imposed provided suitable details of any new fenestration, materials and railing details.*

**Highways Authority:** *Whilst the proposed buildings are just outside the Town centre, and the off road parking spaces do not comply with the requirements of the Local Plan. As the site is close to local car parks, walking distance to the Town Centre and main Bus routes and would probably have less trips than its use as a Conservative Club, Highways would have no objections.*

## **Key Issues/Material Considerations**

### **1. Impact on Heritage Assets.**

## **Planning Officer Assessment**

### **1. Impact on Heritage Assets**

Policy SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have

special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses. Policy TH10 of the Torquay Neighbourhood Plan supports alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

This application is for listed building consent only. Listed building consent is required for all works of demolition, alteration or extension to a listed building that affect its character as a building of special architectural or historic interest.

The Council's Heritage Advisor has commented that the proposed scheme is sympathetic to the listed elements. It is noted that the public face of the building(s) will be restored, whilst the rear and street elevations will benefit from the removal of the canopy and extension.

It should be noted that during the course of the application the proposal has been modified. The proposal originally sought to install white uPVC windows and doors within the south-east elevation within existing apertures to be re-opened. Following negotiation, the plans have now been amended to include timber replacement doors and windows that are considered to preserve and enhance the character of the heritage assets. Information regarding the profiles of the windows should be secured through a planning condition to ensure they are appropriate and don't not adversely impact the heritage assets.

Subject to the conditions being adhered to, the proposal is considered to have an acceptable impact on heritage assets as the proposal would re-use and refurbish the majority of the existing building, remove unsightly additions and use high quality materials. It is considered that there would not be any harm to heritage assets. As such the proposal is considered to be in accordance with Policies SS10 and HE1 of the Local Plan and Policy TH10 of the Torquay Neighbourhood Plan.

### **Statement on Human Rights and Equalities 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.

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected

characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

## **Local Finance Considerations**

### **S106/CIL –**

S106:

Not applicable, subject to the use of a planning condition to ensure the facility serves local residents only.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

#### **EIA:**

Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

## **Conclusions and Reasons for Decision**

The proposal would help to restore and enhance the listed buildings in a manner that would not be detrimental to their significance. The proposal is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

## **Officer Recommendation**

That Listed Building Consent is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

## **Conditions or Refusal reasons**

### **Materials**

Prior to the undertaking of any repair or building works in relation to the listed buildings, details of the proposed use of materials relating to walls, roofs, and openings, including samples, shall be submitted to and approved in writing by the Local Planning Authority. The works shall thereafter be undertaken in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Torquay Harbour Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

### **Railings**

Prior to the installation of the railings hereby approved, a sample or technical detail of the railings shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details, and shall be retained as such thereafter.

Reason: In the interest of visual amenity in accordance with Policy DE1, SS10 and HE1 of the Torbay Local Plan 2012-2030.

### **Windows/Doors**

Prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority, which seek to respond to the positive aspects of the local prevailing character of the area:

- Sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Torquay Harbour Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

### **Relevant Policies**

DE1 - Design

HE1 – Listed Buildings

SS10 – Conservation and the historic environment

TH8 – Established architecture

TH10 – Protection of the historic built environment.