

# TORBAY COUNCIL

Application Site Address	Coach Station Lymington Road Torquay TQ1 4BD
Proposal	Variation of condition in relation to P/2021/0765 (Demolition of existing coach station building, cafe and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) and E(c). Erection of public toilet, 3 new coach bays and associated public realm (as amended)): Condition 17 - (Hours of delivery). Variation sought: To allow deliveries between hours of 07:00 and 22:00 Monday to Saturday, and deliveries not permitted on Sundays and Bank Holidays; amendment to Condition P1 (remediation of anomalies).
Application Number	P/2025/0653
Applicant	Torbay Council
Agent	Torbay Council
Date Application Valid	13.11.2025
Decision Due date	08.01.2026
Extension of Time Date	
Recommendation	<p>Approval subject to:</p> <ol style="list-style-type: none"> <li>1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Place Strategy.</li> <li>2. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Place Strategy, including the addition of any necessary further planning conditions or obligations.</li> </ol>
Reason for Referral to Planning Committee	Application made by Torbay Council.
Planning Case Officer	Emily Elliott

## Location Plan



## Site Details

The site is located within the Coach Station, Lymington Road within the Upton area, north of Torquay town centre. The site is now complete with 5no. new commercial light industrial units

A roundabout lies to the east which connects Lymington Road, running broadly north to south, with Upton Hill further to the east. The western side is occupied by angled coach parking and car parking. Beyond the boundary there is an upward change in level with a tree lined landscape strip separating the site from a variety of two and three storey houses on Upton Road. The eastern portion of the site was occupied by the former Coach Station toilets, café and office block. This was a single storey structure in two bays with a canopy projecting into the site. Further south is the Torbay Innovation Centre, a relatively modern, two storey, flat roof building. The range of buildings is separated from Lymington Road by the footway and line of mature trees. To the south lie further car and coach parking spaces and a collection of public recycling bins at the junction with Upton Road.

It also lies within:

- Flood Zone 3
- Community Investment Area - Zone 1
- North of Upton Conservation Area

## **Description of Development**

This is a Section 73 application to vary a condition relating to P/2021/0765 (Demolition of existing coach station building, cafe and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) and E(c). Erection of public toilet, 3 new coach bays and associated public realm (as amended).

This application seeks to vary the wording of Condition 17.

From:

*No deliveries shall be taken at or dispatched from the site outside the following times: 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays.*

*Reason: To satisfactorily protect the residential amenities of nearby occupiers to comply with Policy DE3 of the Torbay Local Plan.*

To:

*No deliveries shall be taken at or dispatched from the site outside the following times: 07:00 Hours and 22:00 Hours on Mondays to Saturdays and at no time on Sundays and Bank Holidays.*

*Reason: To satisfactorily protect the residential amenities of nearby occupiers to comply with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.*

This application also seeks to make an amendment to Condition P1. It is noted that there are 2no. anomalies within Condition P1:

- Duplication of plan reference '3844.P.AE.02-B'; and
- Inclusion of a superseded Proposed Layout, plan reference '3844.P.AL.02 B'.

## **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"); and
- The Adopted Torquay Neighbourhood Plan 2012-2030 ("The Neighbourhood Plan").

### **Material Considerations**

- National Planning Policy Framework (NPPF);
- Planning Practice Guidance (PPG);
- Published Standing Advice;
- Heritage setting, within a Conservation Area (Upton);

- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990: Section 72; and
- 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**

- CN/2023/0094: Discharge of Conditions relating to P/2021/0765. Conditions: 9 - Landscaping Scheme, 12 - Detailed Design, 13 - Coach Station Shelters, 14 - External Lighting, 15 - Designing Out Crime. Approved 03/11/2023.
- CN/2023/0051: Discharge of Condition relating to application P/2021/0765: Demolition of existing coach station building, cafe and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) and E(c). Erection of public toilet, 3 new coach bays and associated public realm (as amended). Condition: 12 - Detailed Design (part discharge). Discharged In Part 02/08/2023.
- P/2023/0348: Section 73 application to vary a condition relating to P/2021/0765 (Demolition of existing coach station building, cafe and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) and E(c). Erection of public toilet, 3 new coach bays and associated public realm (as amended). Amend wording of condition 18: additional paraphernalia. Approved 08/09/2023.
- P/2023/0333: Non-Material Amendment relating to application P/2021/0765. Amendment sought: Minor adjustments to floorplate, roof angles, ridge heights and eaves heights. Approved 05/05/2023.
- CN/2022/0042: Discharge of Conditions relating to P/2021/0765. Conditions: 02 - Remediation Method Statement, 05 - Surface Water Drainage, 06 - Construction/Demolition Management Plan, 10 - Arboricultural Method Statement, 22 - Flood Emergency Plan. Approved 26/05/2022.
- P/2022/0332: Non Material Amendment relating to application P/2021/0765. Amendment sought: To the external materials including cladding, colours and roof lights. Approved 04/04/2022.
- P/2021/0765: Demolition of existing coach station building, cafe and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) and E(c). Erection of public toilet, 3 new coach bays and associated public realm (as amended). Approved 28/01/2022.

### **Summary of Representations**

1 letter of objection has been received.

Note: Full responses are available to view on the public access system (<https://publicaccess.torbay.gov.uk/view/>).

Concerns include:

- Impact on local area
- Noise

### **Summary of Consultation Responses**

**Torbay Council's Senior Environmental Health Officer** (response dated 25<sup>th</sup> November 2025):

Further to your recent consultation regarding the above application and following a review of the Noise Impact Assessment undertaken by ACT Acoustics I would confirm that I have no objections.

**Torquay Neighbourhood Forum:**

No response received.

**WSP on behalf of the Highway Authority** (response dated 17<sup>th</sup> December 2025):

Through this application, the applicant is seeking to change the delivery operating hours to between 07:00 – 22:00 Monday – Saturday, with no deliveries taking place on Sunday or bank holidays.

Based on the scale of the industrial uses, the Highway Authority raises no objection to the variation of this condition. It is also the view of the Highway Authority that the current layout of the coach station allows for separation of coaches and vehicles for the units' loading bays so there are minimal concerns for conflict with public transport services.

Overall, the Highway Authority is satisfied with the variation of Condition 17 for the extension of delivery hours at the site.

**Planning Officer Assessment**

**Key Issues/Material Considerations**

1. Principle of Development
2. Residential Amenity

**1. Principle of Development**

The principle of the development has been agreed by the approval of P/2021/0765. The key considerations are the impacts of the minor material changes, rather than the broader merit of the wider scheme itself, which is established, as the application raises no new issues of principle having considered the proposal, the Development Plan, and all other considerations.

The anomalies could have been resolved through a Section 96A application, however as the applicant wished to amend Condition 17, it seemed appropriate to include the amendments to Condition P1 also.

It should be noted that several planning conditions have been amended or removed given subsequent discharge of condition applications.

**2. Residential Amenity**

The NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard

of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience. The Local Plan contains policy guidance aligned with the aspirations of the NPPF, principally through Policies SS11, H1 and DE3, towards ensuring that residential development produces high-quality living environments that present a good level of amenity for future users and neighbouring occupiers. Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. Objectors have raised concerns regarding noise and impact on local area.

The application includes a supporting Noise Impact Assessment as the applicant wishes to extend their delivery hours as the units have faced challenges in achieving consistent occupancy and long-term lettings. The applicant has received feedback from prospective and existing tenants that the existing delivery hours imposed under Condition 17 are a significant barrier to the operation of the units. The supporting Noise Impact Assessment outlines that the impact of sound from industrial and commercial activities is typically determined using British Standard 4142:2014+A1, which provides a method of assessment of industrial and commercial sound sources in mixed residential and industrial areas. The Assessment assumed that a single delivery (loading or unloading) lasts no longer than 30 minutes, and that there would be no more than 2no. deliveries per hour across all 5no. units during the daytime and evening periods. In terms of a BS 4142 assessment, the reference time period for daytime and evening (07:00-23:00) is one hour; for the night-time (23:00-07:00), it is 15 minutes. The Assessment has outlined that the most affected noise sensitive location is at No.59 Upton Road, the rear of which overlooks the coach station and the light industrial units.

The Assessment found the following findings:

Element	Daytime	Evening	Night-time	Comments
Specific sound level $L_s$ [dB]	48	45	46	As calculated by the noise model, averaged over 1 hour for daytime and evening, and 15 minutes for night-time.
Acoustic feature corrections [dB]	3	3	3	The total acoustic feature corrections given in section 5.1.
Rating level $L_{ArTr}$ [dB]	51	48	49	The rating level in accordance with BS 4142:2014+A1
Background sound level $L_{A90}$ [dB]	52	46	32	The prevailing background sound level as measured.
Difference [dB]	-1	2	17	The difference between the rating level and the background sound level.

The Assessment outlines that a difference of around +5 dB is likely to be an indication of an adverse impact, while a difference of +10 dB or more is likely to be an indication of a significant adverse impact, depending on the context. In line with this, the above initial assessment indicates a low impact in the daytime and evening periods, and a significant adverse impact at night.

The Assessment concluded that deliveries during the daytime (07:00-19:00) and evening (19:00-23:00) are acceptable, since the predicted rating level is only 2 dB above the background sound level at worst; as such, the likelihood of adverse impact is low. At night, the background sound level is very low, making it impossible to conduct loading / unloading operations without significant adverse impact at the nearby noise sensitive locations.

Torbay Council's Senior Environmental Health Officer has reviewed the supporting information and raises no objection to the extended delivery hours.

Subject to the aforementioned amended planning condition, it is considered that the proposal would not result in any detrimental harm to the amenities of the occupants of neighbouring buildings in terms of their privacy, outlook, access to natural light or noise, and therefore the proposal is considered to accord with Policy DE3 of the Local Plan.

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

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. 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**

#### **CIL:**

Not applicable.

#### **S106:**

Not applicable.

### **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. The development does not meet the thresholds for screening and is not in a sensitive area.

**HRA:**

Not applicable.

**Planning Balance**

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development. As such it is concluded that the planning balance is in favour of supporting this proposal.

**Conclusions and Reasons for Decision**

The relevant legislation requires that the application be determined in accordance with the statutory development plan unless material considerations indicate otherwise. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

**Officer Recommendation**

Approval: subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Place Strategy.
2. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Place Strategy, including the addition of any necessary further planning conditions or obligations.

**Planning Conditions****1. Use Class**

The industrial units hereby approved shall be used only for purposes falling within Use Class E (c) and (g) of The Town and Country Planning (Use Classes) Order, 1987 (as amended) or in any provisions equivalent to those Classes in any Statutory Instrument revoking and re-enacting that Order and for no other purpose without the prior grant of planning permission.

Reason: To ensure that the development is compatible with surrounding uses. In order to accord with Policies TC2, TC3 and TC4 of the Adopted Torbay Local Plan 2012-2030.

**2. Remediation Scheme**

The development shall be carried out in strict accordance with the approved detailed remediation scheme (ref: 'RP7765-RMS (RMS)', received 11.04.2022) pursuant to condition 2 of planning permission P/2021/0765, approved on the 25.05.2022 via CN/2022/0042. The approved remediation scheme shall be implemented in full.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

### **3. Flood Risk Assessment**

The development shall proceed in full accordance with the submitted and approved Flood Risk Assessment. The use shall thereafter be operated in accordance with the approved details.

Reason: In the interests of managing flood risk to occupiers in accordance with the National Planning Policy Framework, and to comply with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030.

### **4. Surface Water Drainage Scheme**

The development shall be carried out in strict accordance with the surface water drainage details approved (ref: '11327 - C150' and '11327 - C100' received 05.05.2022) pursuant to condition 5 of planning permission P/2021/0765, approved on the 26.05.2022 via CN/2022/0042. Development shall take place in accordance with the approved details and shall be retained and maintained at all times thereafter to serve the development.

Reason: In the interests of adapting to climate change and managing flood risk, and to accord with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and guidance contained in the National Planning Policy Framework.

### **5. Ecological Mitigation Measures**

The development shall proceed in full accordance with the submitted and approved Ecological Mitigation and Enhancement Strategy (EMES) and combined Construction and Ecological Management Plan (CEcoMP) by Ecology Services SW - September 2021).

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Adopted Torbay Local Plan 2012-2030 and guidance contained in the National Planning Policy Framework.

### **6. Ecological Mitigation Measures**

The development shall include the following measures (in accordance with manufacturer's instructions for correct siting and installation) and be retained at all times thereafter:

- The provision of integrated habitat by design for swifts (*Apus apus*), in the form of nesting bricks built within the outer wall brickwork or fabric of the buildings. Two bricks to be incorporated per unit build.

- The inclusion of bee bricks within the upper story outer walls of the buildings. Two bricks to be incorporated per unit build.
- The inclusion of bat boxes/bricks/tubes. Two bricks to be incorporated per unit build.

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

## 7. Landscaping

The development shall be carried out in strict accordance with the hard and soft landscaping details approved (ref: 'CN-2023-0094-4 ((Soft Landscaping))' received 19.09.2023, '2306 5 L 01 10 B' received 19.10.2023, and '2306 5 L 01 11 00' received 19.09.2023) pursuant to condition 9 of planning permission P/2021/0765, approved on the 03.11.2023 via CN/2023/0094. Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development.

Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of a similar size and the same species. All hard landscaping works shall be permanently retained thereafter in accordance with the approved details.

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

## 8. Detailed Design

The development shall be carried out in strict accordance with the detailed design details approved (refs: 'NIL7820 - 5', 'NIL7820 - 4', 'CN2023-0051-1 ((Roller Shutter))', 'NIL7820 - 100 (B (window-door schedule))', 'NIL7820 - 1 ((window head))', 'NIL7820 - 3 ((window head))', 'NIL7820 - 2 ((window jamb))' and 'CN2023-0051-2 ((colour-wall samples))' received 16.06.2023, and 'CN-2023-0094-1 ((Signage))' and 'CN-2023-0094-2 ((Coach Shelters))' received 19.09.2023) pursuant to condition 12 of planning permission P/2021/0765, approved on the 02.08.2023 via CN/2023/0051 and on the 03.11.2023 via CN/2023/0094. Development shall take place in accordance with the approved details and shall be retained and maintained at all times thereafter to serve the development.

Reason: In order to protect visual character and heritage assets in accordance with Policies DE1, SS10 and DE4 of the Adopted Torbay Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and advice contained within the National Planning Policy Framework.

## 9. Coach Station Shelters

The development shall be carried out in strict accordance with the coach station shelter details approved (ref: 'CN-2023-0094-2 (Coach Shelters)' received 19.09.2023) pursuant to condition 13 of planning permission P/2021/0765, approved on the 03.11.2023 via

CN/2023/0094. Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development.

Reason: In order to protect visual character and heritage assets in accordance with Policies DE1, SS10 and DE4 of the Adopted Torbay Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and advice contained within the National Planning Policy Framework.

#### **10. Lighting Strategy**

The development shall be carried out in strict accordance with the lighting strategy details approved (refs: 'E2001 (Lighting)' and 'CN-2023-0094-3 (Lighting Strategy)' received 19.09.2023) pursuant to condition 14 of planning permission P/2021/0765, approved on the 03.11.2023 via CN/2023/0094. Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development.

Reason: In order to protect visual character in accordance with Policies C2, DE1, HE1, SS10 and DE1 of the Adopted Torbay Local Plan 2012-2030, Policy TH8 of Adopted Torquay Neighbourhood Plan 2012-2030 and advice contained within the National Planning Policy Framework.

#### **11. Designing Out Crime**

The development shall be carried out in strict accordance with the designing-out crime details approved (refs: 'NIL7820 – 100 (Windows and Doors)', 'E2000 (Lighting)' and 'TR 251-14 (Smart Wall Test)' received 19.09.2023) pursuant to condition 15 of planning permission P/2021/0765, approved on the 03.11.2023 via CN/2023/0094. Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

#### **12. Bicycle Storage**

The development shall be carried out in strict accordance with the approved bicycle storage details and shall be retained and maintained as such for the lifetime of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Adopted Torbay Local Plan 2012-2030.

#### **13. Delivery Times**

No deliveries shall be taken at or dispatched from the site outside the following times: 07:00 Hours and 22:00 Hours on Mondays to Saturdays and at no time on Sundays and Bank Holidays.

Reason: To satisfactorily protect the residential amenities of nearby occupiers to comply with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

#### 14. Additional Paraphernalia

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 and DE3 of the Adopted Torbay Local Plan 2012-2030.

#### 15. Permitted Development Removed

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class A, Class H and Class J, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking that Order, no extensions or alterations, including additional hard standings, shall be made to the building hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policies DE1, DE3, TA3 and ER1 of the Adopted Torbay Local Plan 2012-2030, the Adopted Torquay Neighbourhood Plan 2012-2030, and the National Planning Policy Framework.

#### 16. Coach Parking Bays

The development shall be carried out in strict accordance with the coach parking bays and shelters shown on the approved plans shall be provided. Once provided, the agreed bays shall be retained for the life of the development and made available for use for coach parking.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Adopted Torbay Local Plan 2012-2030.

#### 17. Flood Emergency Plan

The development shall be carried out in strict accordance with the flood emergency plan details approved (ref: 'CN-2022-0042-3 (Flood Emergency)' received 11.04.2022) pursuant to condition 22 of planning permission P/2021/0765, approved on the 26.05.2022 via CN/2022/0042. Development shall take place in accordance with the approved details and shall be retained and maintained at all times thereafter to serve the development.

Reason: In the interests of public safety and managing flood risk to occupiers in accordance with the National Planning Policy Framework, and to comply with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030.

## **Informative(s)**

### **Positive and Proactive**

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.

### **Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for development of land in England is deemed to have been granted subject to the condition (biodiversity gain condition) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are set out in the Biodiversity Gain Requirements (Exemptions) Regulations 2024 and The Environment Act 2021 (Commencement No. 8 and Transitional Provisions) Regulations 2024.

Based on the information provided to determine the application this permission is considered to be one which will not require the approval of a biodiversity gain plan before development is begun because one or more of the statutory exemptions or transitional arrangements is/are considered to apply.

## **Relevant Policies**

### **Development Plan Relevant Policies**

DE3 - Development Amenity