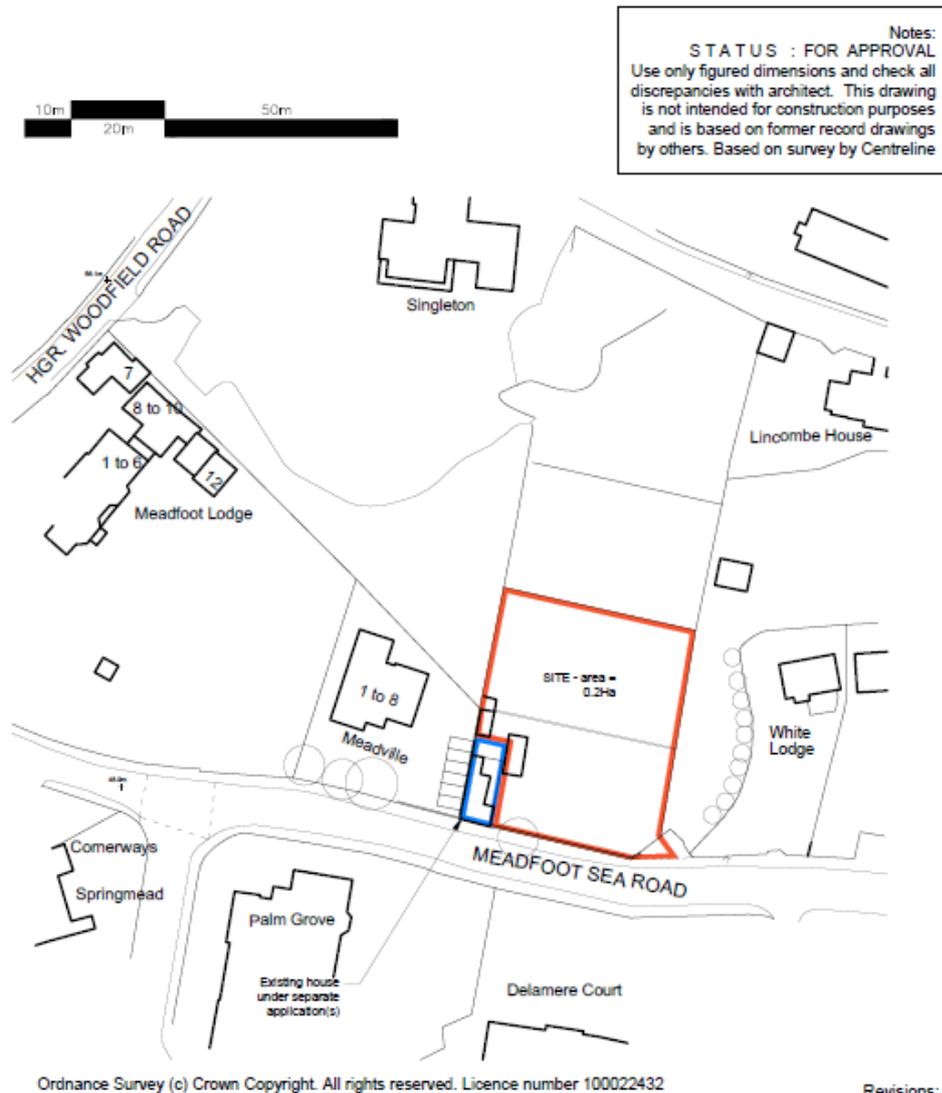


TORBAY COUNCIL

Application Site Address	Singleton Gardens Meadfoot Sea Road Torquay TQ1 2LQ
Proposal	Construction of 7 residential apartments, plus landscaping, parking, access and associated works.
Application Number	P/2025/0612
Applicant	Mr R Bishop - O.J. Developments Ltd.
Agent	Mr D Metcalfe
Date Application Valid	11/11/2025
Decision Due Date	06/01/2026
Extension of Time Date	06/03/2026
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Place Strategy;</p> <p>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.</p> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Place Strategy and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee by Cllr Foster due to the history of the site and heritage. The Chairman of the Planning Committee has confirmed that he considers the application should be referred to Members for determination in the interest of the public.
Planning Case Officer	Verity Clark

Location Plan:



Site Details

The application site at Singleton Gardens, is curtilage land of a residential dwelling on the northern edge of Meadfoot Sea Road. The site relates solely to the curtilage land of the dwelling, i.e. the red line does not include that part of the wider site that incorporates the partially demolished dwelling.

The residential dwelling within the blue line was modest in scale within a large plot. Householder planning application P/2023/0994 granted consent on the 5th March 2024 for alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse & outbuilding, landscaping and associated

works. Works to implement this consent took place within the required timescale, however on the 18th April 2025 the Council was made aware of works to the site that exceeded those allowed via this consent. These works included the partial demolition of the original dwellinghouse. As a result, this planning permission has not survived and is no longer implementable. This was confirmed by a recent appeal decision (ref: APP/X1165/W/25/3375118), which related to the Council's refusal to validate P/2025/0365 which was a Section 73 variation of condition application to regularise the works.

A subsequent full planning application for a replacement dwelling was approved via P/2025/0423 on the 11th November 2025.

An enforcement notice has been upheld via appeal APP/X1165/C/25/3369832 for the reconstruction of the dwelling as similar as possible to the building as it stood immediately prior to its demolition and the reinstatement of the stone wall by the existing vehicular access. The area of stone wall is within the red line of this application but the partially demolished dwelling is not.

In terms of the site which is the subject of this application, the site is enclosed by stone and rendered boundary walls. The land rises to the north towards Lincombe Drive, with a copse of trees set above the northern extremity of the site boundary. To the north-west of the site are two large villas (Singleton and Meadfoot Lodge) with extensive grounds and directly to the north west is Meadville which is a modern building in use as flats. To the east lies an array of private houses of varying ages and types. To the south of the site, on the opposing side of Meadfoot Sea Road are large villas with extensive grounds.

The site is located within an existing residential area, is designated as Flood Zone 1, is situated within the Lincombes Conservation Area and is subject to Area Tree Protection Order (1973.001). Within the Lincombes draft Conservation Area Character Appraisal, an outbuilding, the greenhouse (now demolished) and the partially demolished dwelling (located within the wider site) are noted as other key buildings of architectural importance which make a significant contribution to the townscape.

The site is adjacent to 'Singleton' (Grade II listed) and 'Palm Grove' (Grade II listed) is located on the opposite side of Meadfoot Sea Road and to the north west the nearby 'Meadfoot Lodge' and 'wall and gate piers to the west of Meadfoot Lodge' are Grade II listed.

Description of Development

The proposal seeks permission for the formation of seven apartments with a modified access and associated parking provision and landscaping.

The proposed apartment block would involve a mixture of two (1x), three (5x) and four (1x) bedroom apartments, which would have four storeys. The proposed apartment block would have an asymmetrical frontage and would be sited in the rear section of the plot, attaching to and built into a re-built horizontal stone dividing wall. The proposed apartment block would be finished in render, zinc standing seam vertical cladding, with powder coated aluminium openings and dark grey metal rainwater goods.

The proposals would block up the existing vehicular access with a stone wall and will form a new gated vehicular and pedestrian access from Meadfoot Sea Road adjacent to the existing access. The existing southern boundary wall adjacent to Meadfoot Sea Road will be demolished and rebuilt in stone. The proposal will retain the existing north, east and western boundary walls. The site would provide a total of 10no. on-site parking spaces; 3no. within the courtyard, and 7no. within the undercroft of the apartment block. The apartments would be served by 1no. car parking space each. The layout includes 2no. parking spaces for the partially demolished dwelling (which is within the blue line) and 1no. visitor space would be provided within the courtyard.

Relevant Planning History

Pre-application enquiry DE/2019/0015: Development of 8 apartments with parking. Summary - The principle of residential development in this location is considered acceptable however, as discussed, there are a number of concerns relating to the proposal's design and layout; impact on neighbours; along with a workable parking and manoeuvring area. Should a planning application be submitted, planning officers are unlikely to support a proposal along the lines indicated in your submission. It is likely that the matters raised could be addressed if the scale and bulk of the proposed development was reduced in line with comments provided by the Council's Interim Heritage Advisor, which would decrease the amount of residential units and parking required, and subject to acceptable impacts on neighbours.

Pre-application enquiry DE/2020/0042: Construction of six dwellings. Summary - The principle of residential development in this location is considered broadly acceptable subject to wider policy considerations. As discussed, there are a number of concerns relating to the proposal's design and layout; impact on neighbours; along with a workable parking and manoeuvring area. Should a planning application be submitted, planning officers are unlikely to support a proposal along the lines indicated in your submission. It is likely that the matters raised could be addressed if the design was sensitive to the heritage assets, along with decreasing the amount of parking proposed, and ensuring that the scheme has an acceptable impact on adjacent occupiers.

P/2021/0802: Formation of 9 apartments & 2 semi-detached dwellings with access, garages & parking. Demolition of existing outbuildings. Alterations & extensions to

existing dwelling to include 2 storey extension to side. Refused 18/03/2022 for the following reasons:

- Given the siting, scale and design of the proposal, it is considered the proposal would fail to reflect local distinctiveness as well as failing to relate acceptably to the heritage assets. The proposed siting, scale and design of the semi-detached dwellings is suburban in character and would be dominant in the street scene. As such they would be inappropriate and out of character with the context of the site and surrounding area and fail to respect the local character and would lead to less than substantial harm to the setting of the 'Palm Grove' listed building. The proposed scale and design of the apartment block fails to provide a quality design, respect the local character in terms of design, scale and bulk, and in terms of reflecting the identity of its surroundings. It would present itself as an overtly dominant mass within the locality that would be highly visible within the Lincombes Conservation Area. The proposal in its totality would result in an incongruous addition that would cause demonstrable harm to the heritage assets that is not outweighed by sufficient public benefit. The proposal is considered to fail to conserve or enhance the distinctive character and appearance of the Lincombes Conservation Area and would lead to less than substantial harm to the heritage asset. The proposal is considered to be contrary to Policies DE1 and SS10 of the Adopted Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the guidance contained within the NPPF, in particular Paragraphs 130, 134, 199 and 202.
- The proposed development would provide a poor quality residential environment by reason of the trees adjacent to the western boundary in relation to the proposed apartment block, in particular apartments 3, 6 and 8, some of the habitable rooms would have limited access to natural light given the trees, which would result in the creation of an environment injurious to the amenity of future residents, contrary to Policy DE3 of the Adopted Torbay Local Plan 2012-2030 and the National Planning Policy Framework, in particular Paragraph 130.
- The proposed works are in close proximity to a protected tree within the Lincombes Conservation Area. As insufficient information has been provided it cannot be confirmed that the proposal would have an acceptable impact on the protected tree and the contribution it makes to the surrounding streetscene, and therefore whether the proposal would be in accordance with Policy C4 of the Adopted Torbay Local Plan 2012-2030.
- The proposal, in the absence of a completed S106 Legal Agreement, fails to secure the necessary provision of affordable housing, contrary to Policy H2 of the Adopted Torbay Local Plan 2012-2030 and the National Planning Policy Framework, in particular Paragraphs 63 and 65.

Pre-application enquiry DE/2022/0068: Formation of 7 apartments & 2 semi-detached dwellings with access, garages & parking. Demolition of existing outbuildings. Alterations & extensions to existing dwelling to include 2 storey extension to side. Summary - The principle of residential development in this location is considered broadly acceptable subject to wider policy considerations. The design presented is considered to represent a positive design solution to the concerns previously raised. From the floor plans presented it appears that the apartments on this side of the building feature multiple openings on different elevations and the siting has been moved away from this boundary. This has likely addressed the second reason for refusal. We would expect arboricultural information to be submitted in support of the application to address the third reason for refusal. The last reason for refusal related to affordable housing provision. Policy H2 seeks affordable housing contributions on greenfield sites of three dwellings or more. For nine dwellings it would have an affordable housing target of 15% which is usually sought through a commuted sum. Should a planning application be submitted detailing the proposed apartment building, semi-detached coach houses and extension to the existing dwelling, planning officers are likely to support a proposal.

P/2022/1186 Erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing dwelling; plus associated landscaping and access work. Refused 31/08/2023 for the following reasons:

- The proposal, in the absence of a completed S106 Legal Agreement, fails to secure the necessary provision of affordable housing, contrary to Policy H2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained within the NPPF. The applicant's offer of a contribution of £65,000 towards off-site affordable housing is inadequate and fails to comply with Policy H2.
- Given the siting, scale, massing and design of the proposal as a whole, the development would fail to reflect local distinctiveness as well as fail to relate acceptably to the Lincombes Conservation Area. The proposal will result in the development of the existing garden which provides an open aspect within the Conservation Area to the detriment of this designated heritage asset. Overall the proposal is considered to fail to conserve or enhance the distinctive character and appearance of the Lincombes Conservation Area and would lead to harm to the designated heritage asset which is not outweighed by public benefit. The proposal is therefore contrary to Policies DE1 and SS10 of the Adopted Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the guidance contained within the NPPF, in particular Paragraphs 130, 134, 199 and 202.
- Appeal dismissed 12th November 2024.

P/2023/0994 Extensions & alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse & outbuilding, landscaping and associated works. Approved 05/03/2024. This planning permission has not survived and is no longer implementable. This is confirmed in writing through the recent appeal decision APP/X1165/W/25/3375118.

Pre-application enquiry DE/2025/0040 - Formation of 7 apartments.

Summary: The principle of residential development in this location is considered broadly acceptable subject to wider policy considerations. The development of the garden which provides an open aspect within the Conservation Area will result in less than substantial harm to the Conservation Area and the setting of nearby listed buildings however the development put forward is considered to be sensitively designed in terms of layout, siting, massing and appearance which limits the harm caused (this could be further improved with a reduction in car parking spaces and an increase in landscaping) and the revised access has removed any potential harm to the prominent street tree which makes a positive contribution. On balance, the public benefits of the scheme as a whole, when weighed against the level of harm caused, are considered likely to justify the proposal and the proposal is considered to represent sustainable development when considering the Local Plan, Neighbourhood Plan and NPPF taken as a whole as the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits. Other than the harm to the Conservation Area and setting of the nearby listed buildings, there are no other adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits of the development. Overall, if a planning application was to be submitted on the basis of the plans submitted, with a revision to the layout to reduce the courtyard parking to a policy compliant level with a resultant increase in landscaping, officer support is likely to be forthcoming.

AP/2025/0038 and P/2025/0365 - Variation of Conditions relating to application P/2023/0994: Extensions & alterations to the existing dwelling including demolition of existing extensions, formation of two storey and single storey extensions, roof alterations and replacement fenestration. Demolition of greenhouse & outbuilding, landscaping and associated works. Conditions: P1 - Approved Plans, 03 - Tree Protection Measures. Variations sought: Alterations to demolition areas and amendments to wall positioning which may impact tree protection matters.

- Appeal APP/X1165/W/25/3375118 dismissed on 21/01/2026 against the non-validation/determination of the application by the LPA. This appeal related solely to the basis that the proposal was submitted via an incorrect application type and did not relate to planning merit.

P/2025/0423 Partial demolition of existing dwelling house, demolition of greenhouse and outbuilding and construction of replacement dwelling and associated works. Approved 11/11/2025.

- The current application and the scheme of P/2025/0423 are functionally and physically linked and therefore the cumulative impact of both needs to be considered within the decision making process. Each application must however be considered on its own merits.
- It is noted that there is an inconsistency in the layout between the current application and P/2025/0423 but given that the case of *Pilkington v SoS for the Environment 1973* established the principle that even though implementing one permission may make completion of another physically impossible, it does not make it unlawful for two inconsistent permissions to exist. If the current application is approved, the applicant will need to choose which scheme is to be implemented and could consider applying to amend the alternative scheme.

Enforcement:

2025/0093/EN –

Temporary stop notice served on the 28th April 2025.

Enforcement notice served on the 23rd June 2025.

Reason for issuing notice:

The demolished building is identified as being a 'key building' within the Lincombes Conservation Area. The south and west elevation of the demolished building, with a narrow-hipped roof, chimney and exposed natural stone walling, was readily visible from a public perspective and made a demonstrable contribution to the historic environment within the immediate area.

The works to partially demolish the stone wall in the approximate location identified by a green line on the attached plan titled "Map 2" has resulted in the unjustified loss of historic fabric and has diluted the positive impact of the stone boundary wall to the historic character of the street and the wider conservation area.

The loss of the key building and part of the stone wall has therefore caused harm to the significance of the Lincombes Conservation Area as a heritage asset. This level of harm would be 'less than substantial'; with no evidential public benefits arising from this harm. The works would, therefore, be contrary to Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, Policy SS10 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in Paragraphs 215 and 216 of the National Planning Policy Framework.

The Council does not consider that planning permission should be given because planning conditions could not overcome these objections.

Appeal APP/X1165/C/25/3369832 upheld the enforcement notice on 21/01/2026.

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 Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Lincombes Conservation Area and sets out the general duty as respects listed buildings, which requires Local Authorities to 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. 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)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Practice Guidance (PPG)
- Lincombes Conservation Area Map
- 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

The application was publicised through a site notice, newspaper advert and neighbour notification letters. The application was re-advertised as the red line on the site location plan has been extended to encompass the existing vehicular access to the public highway.

At the time of writing the application is currently still within the re-consultation period and the planning committee will be verbally updated on the total representation. Approximately 31 letters of objection and 25 letters of support have been received to date (20/02/2026).

The following provides a summary of the main issues identified:

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

Objections include:

- Eyesore
- Trees
- Ecology
- Demolished dwelling should be re-built
- Conflicts with national and local policy
- Planning history and appeals
- Impact on heritage, Conservation Area and listed buildings
- Impact on open aspect
- Impact on streetscene
- Curtilage listed
- Size, massing and scale
- Loss of open space
- Materials
- Design, visual appearance and beauty
- Officer approach and bias
- Separation of the site and salami slicing
- Lack of public benefit
- Future use of flats and a lack of shortfall for luxury flats
- Sets precedent
- Alternative brownfield sites
- Inaccurate and inconsistent plans
- Disrupts the established rhythm of the street
- Overdevelopment
- Impact on economy
- Lack of affordable housing and CIL
- Impact on neighbouring amenity
- Overlooking and reduced privacy
- Cumulative impact
- Inadequate assessment on impact on heritage assets
- Parking, traffic and access
- Waste disposal
- Drainage
- Noise
- Torbay heritage strategy
- Green infrastructure delivery plan
- Failure to maintain or restore orchard
- Deliberate neglect
- Site boundary and red line
- Ownership of land

Comments in support include:

- Housing need
- Provides houses
- Addressed appeal comments
- Reduced and more appropriate level of development
- Design
- Impact on Conservation Area
- Good internal layouts
- Garden space
- Parking provision
- Sustainable location
- Improve appearance of area
- Supports local economy
- Improves local amenity
- Energy efficient homes
- Parking
- Improves safety and accessibility
- Impact on trees addressed
- Heritage impacts
- Existing streetscene and precedents
- Potential new designations rejected
- Public benefits
- Planning and site history
- Current appearance of site

Summary of Consultation Responses

Torquay Neighbourhood Forum:

Response dated 11/12/25:

RELATIONSHIP OF PLANNING APPLICATIONS P/2025/0612 AND P/2025/0423

When planning application P/2025/0423 was presented at the Planning Committee meeting on 10/11/25, Torbay Council planning officers knew that the developer had already submitted a further planning application P/2025/0612 on 30/09/25 and officers had been in dialogue with the developer from April 2025.

P/2025/0612 was validated on 11/11/25 (the day after the Planning Committee met to discuss P/2025/0423) yet nothing was said about this at the 10th November Planning Committee meeting. The Committee approved P/2025/0423 without being told about P/2025/0612.

- **Material Considerations:** When considering an application, the LPA must take all "material considerations" into account. This includes the existence of other, related planning applications on the same site, especially those that are

"physically or functionally linked". These applications are functionally linked because of their cumulative impact (e.g., traffic generation, infrastructure needs, and overall scale of development in a sensitive/conservation area).

- Avoiding Policy: If the splitting of applications appears to be a deliberate tactic to avoid certain planning obligations (e.g., affordable housing requirements triggered by developments of a certain size), the LPA should address this through relevant local plan policies.
- The practice of knowingly "salami slicing" a planning application into multiple smaller submissions can be a breach of the Nolan Principles (specifically objectivity and accountability) and is potentially unlawful under planning law if used to bypass necessary scrutiny.
- Conservation Areas: In a conservation area, where preserving character and appearance is a key planning objective, the cumulative impact of multiple developments is a highly relevant material consideration. Approving related applications in isolation would likely be a significant planning failure.
- Probity in Planning: To maintain probity, transparency, and avoid any perception of bias, all relevant information that could affect the decision should be disclosed. Failure to disclose a relevant application could lead to a legal challenge on the grounds of a flawed decision-making process.

The Forum believes that these planning decisions are materially linked and should have been considered as a single submission.

A detailed assessment of the compliance of this application with policy statements in the Torbay Local Plan and Torquay Neighbourhood Plan is attached to this letter. Key points are:

1. Overarching Position

The application results in demonstrable harm to:

- The character and appearance of the Lincombes Conservation Area
- The setting of three nearby Grade II listed buildings
- The established open, green, landscaped pattern of development along Meadfoot Sea Road

This harm is acknowledged by the applicant's own heritage professionals and is not outweighed by the private benefits of seven market flats.

The proposal conflicts with the Torbay Local Plan, the Torquay Neighbourhood Plan, and the NPPF.

2. Heritage Harm (Primary Reason for Refusal)

2.1 Conservation Area – Local Plan SS10 / HE1 / NPPF 199–208

The applicant's Planning Statement quotes the Principal Historic Environment Officer confirming the proposal causes:

- "Less than substantial harm"

- Through loss of green open qualities
- Affecting the Conservation Area and setting of listed buildings

This harm must be given great weight in decision-making (NPPF §199).

2.2 Setting of Listed Buildings

The site sits against or opposite:

- Singleton (Grade II)
- Palm Grove (Grade II)
- Meadfoot Lodge and its gate piers (Grade II)

Infilling the open garden with a block of flats reduces:

- Spatial separation
- Green backdrops
- Historic garden context
- Views across the site

These are all recognised contributors to setting.

2.3 Public Benefits Do Not Outweigh Harm

The applicant relies on:

- Private housing units
- Landscaping “mitigation”

None of these constitute public benefits as required by the NPPF heritage balance test.

3. Design & Character (Clear Policy Conflicts)

3.1 Local Plan DE1 – Design

The proposal does not reflect the:

- Form
- Rhythm
- Spacing
- Plot coverage
- Green character

...of the Lincombes Conservation Area.

3.2 Torquay Neighbourhood Plan TH8

This policy requires development to:

- Respect local character, scale, and bulk
- Maintain open landscaped plots
- Protect greenery and spatial qualities of the Lincombes

Seven flats with parking hardstanding undermine the key characteristics TH8/TH9 seek to protect.

3.3 Pattern of Development

The Lincombes is characterised by:

- Large, detached villas
- Generous grounds
- Significant planting
- Clear spacing between buildings

The proposed block significantly intensifies development on a historically open plot.

4. Misinterpretation of the Appeal Decision

The Planning Statement suggests that the 2024 appeal inspector endorsed the design and principle of development.

This is inaccurate:

- The Inspector's comments were context-specific and are not transferable.
- The appeal was NOT dismissed solely on tree harm. Other impacts were NOT judged acceptable.
- When all matters are weighed in the planning balance, the Inspector found that the adverse impacts of the proposed development would NOT be outweighed by the benefits. There would be conflict with the overall provisions of the Development Plan and the Framework when read as a whole.

Each new application must be assessed afresh.

5. Housing Land Supply (Tilted Balance Does Not Apply)

The applicant asserts that Torbay's housing shortfall should "weigh heavily" in favour of approval.

This is incorrect.

The NPPF's tilted balance does not apply where designated heritage assets are harmed (NPPF footnote 7).

Heritage harm must take primacy, regardless of land supply deficit.

In Torbay, the "housing shortfall" is in the affordable housing sector, NOT for luxury 2, 3 or 4 bedroom apartments or second/holiday homes. The "Access & Design" statement says that the S106 contribution from this new scheme will need to be reduced from the minimal proposed by P/2022/1186 in order for this new scheme to remain viable. The S106 contribution from this scheme will be minor.

6. Loss of Openness & Green Character

The Historic Environment Officer identifies loss of open green qualities as a key area of harm.

This is reinforced by:

- The site's contribution to the wider Conservation Area
- Its role as a landscape break between listed buildings
- Its visual role along Meadfoot Sea Road

The proposal introduces built form and hard surfacing where open garden previously contributed positively to the townscape.

7. Highways, Access & Layout

While parking numbers meet Appendix F, this does not address:

- Increased traffic movements
- Impact on the Conservation Area from increased on-road parking
- Vertical cycle parking not appropriate and not accessible for many users, unclear if cycle parking has step free access.

Policy conflicts:

- Local Plan TA2 – Development Access
- Local Plan DE3 – Development Amenity
- Neighbourhood Plan TH8/TH9 (which expect sensitive car-light layouts)

8. Drainage & Flood Risk – Critical Drainage Area

The Planning Statement claims “improvements”, but:

- The suitability of SUDs Infiltration is not adequately proven.
- CIRIA (2015) requires that a factor of safety (FOS) of 10 is applied to the surface infiltration rate of all surface types. The submitted calculations only apply a FOS of 1.5.
- Surface drainage calculations include the required +50% Area increase for Climate Change, but not the additional 10% Area required for Urban Creep.
- The 1-in-10-year rainfall event “Greenfield” run off rate, to ensure ‘no risk of flooding to adjacent land’, has not been calculated. This is required in such situations where the suitability of SUDs infiltration is not proven.
- The proposed soakaway/tanks offer some flow attenuation but do not demonstrate that the discharge flow rate will be controlled to the maximum permitted 1 in 10yr storm event.
- No exceedance flow modelling is provided.
- The exceedance flow route must not be discharged onto the highway (Ref Highways Act) and the exceedance flow resulting from rainfall in excess of a 1 in 100 year rainfall event plus an allowance for climate change (50% +10%) must be managed in an exceedance route that minimizes risk to people and property. This has not been proven.
- Under Local Plan ER1, the burden is on the applicant to prove that there is no increased flood risk. That evidence has not been supplied.

9. Amenity

The applicant relies on amenity conclusions from a different historical layout.

This revised scheme:

- Alters massing
- Changes overlooking relationships
- Reduces green space
- Introduces a vehicle-dominated courtyard

Amenity must be reassessed afresh, and the Planning Statement offers no credible analysis against Local Plan DE3.

10. Policy Summary – Clear Conflicts

The proposal conflicts with:

Torbay Local Plan

- SS10 – conserve/enhance Conservation Areas
- DE1 – high-quality design respecting character
- HE1 – protect listed buildings and their settings
- C4 – protect landscape features & openness
- TA2 / DE3 – access and amenity

Torquay Neighbourhood Plan

- TH8 – character, scale, design

NPPF

- 130–141 – design policies
- 199–208 – heritage policies
- Footnote 7 – heritage harm overrides tilted balance

11. Conclusion

The proposal causes recognised heritage harm and fails to demonstrate compliance with the Local Plan or Torquay Neighbourhood Plan. The limited private benefits of seven market flats do not outweigh the impact on the Conservation Area, the listed buildings' settings, or the established open, landscaped character of the Lincombes. Refusal would be both lawful and necessary.

Response dated 16/02/26 (a full version of the comment with associated images can be viewed on the public access system (<https://publicaccess.torbay.gov.uk/view/>)).

The Forum has previously written objecting to this planning application because there are multiple policy conflicts with the Torbay Local Plan and the Torquay Neighbourhood Plan. The proposal causes recognised heritage harm and the limited private benefits of seven market flats do not outweigh the impact on the Conservation Area, the listed buildings' settings, or the established open, landscaped character of the Lincombes. The Forum concluded that Refusal would be both lawful and necessary.

Since the Forum submitted their Consultee Response dated 11 December 2025, significant amendments have been made to the original planning application which have further invalidated the legality of the application because proper process has not been followed.

1. Site Plan

The original site outline (not to scale) is shown below and formed part of the planning application submitted by the developer on 30th September 2025 but not validated by the Planning Department until 11th November 2025, the day after the Planning Committee approved a related application P/2025/0423.

A revised planning application form dated 26th January 2026 has also been submitted to reflect the change.

It is understood from the revised Singleton Gardens planning application that the additional area of land is not shown in the Land Registry records as being a part of the title of either Singleton Gardens or Osborne House. From the revised planning application it appears to be “unowned land”.

This raises the following issues:

2. Access to neighbouring property “Osborne House”

The driveway, and single entrance to the neighbouring property crosses the triangle of land shaded orange in this extract from the Land Registry entry for Osborne House. It is also clearly seen in the photograph of the Osborne House entrance submitted as part of the Singleton Gardens planning application.

Transferring ownership of this triangle of land shaded orange to the Singleton Gardens site may result the owners of Osborne House being unable to access their property.

3. Lack of information for the Change

The revised planning application gives no explanation for this change. Neighbouring householders received letters from the Council dated 2nd February 2026, advising them only that as part of P/2025/0612 a revised site location plan and application form had been received. The closing date for comments was amended to 26th February 2026.

Reasons for the change are unclear, but the following is clear:

- Torbay Council’s “Highways Design Guide” (Rev. 16, October 2025) specifies that any vehicle access gate shall be set back 6m from the highway boundary and open inwards.
- Drawing 818.09A (dated 03/08/25) submitted as a part of the Singleton Gardens planning application shows the vehicle entrance gate onto Meadfoot Sea Road and fails to meet the 6m set-back required.
- Whether it is the intent of the applicant to submit a future variation to the planning application to rectify this failure can only be surmised. However, including the “orange land triangle” within the Singleton site boundary means the developer could relocate the entrance to the SE corner of the site and achieve the setback requirements without unduly curtailing the courtyard area in front of the proposed block of flats.

There is clearly an error in the drawings submitted for this application as they do not show the access gate in an acceptable location.

4. Boundary Wall onto Meadfoot Sea Road

The revised planning application document states:

“Demolition of the southern brick/block rendered boundary wall. This is necessary to re-create the original stone-faced wall along Meadfoot Sea Road and to form a new, safe vehicle and pedestrian entry; blocking in the modern splayed site entrance extant today”.

If the entrance gate location is changed, this will require more extensive demolition and reconstruction of the front boundary wall onto Meadfoot Sea Road. Given the size and scale of the wall, appropriate footings will be required and excavation to the required depth may affect several noteworthy trees, including the London Plane tree on the pavement.

The arboricultural report states “The principal tree constraining the site is T7 (London plane) which is a council owned street tree within the highway. Provision for its protection through the demolition of and replacement wall construction phases is addressed via an arboricultural watching brief / AMS in combination with tree specific stem protection. This will ensure this T7 can be successfully retained.”

Given the recent history of damage and loss to other trees in Singleton Gardens, and the unlawful demolition of the former Gardener’s Cottage in contravention of Approved planning permission, the Forum is extremely concerned about the adequacy of such arrangements. The importance of protecting and preserving this tree was emphasized by the Planning Inspectorate when dismissing the Appeal Reference AP/2023/0058 (APP/X1165/W/23/3333967) brought by the developer for refusal of planning application P/2022/1186.

5. Lawfulness of the Planning Application

5.1 Land Ownership

The revised planning application now includes a Certificate D under Article 14 - Town and Country Planning (Development Management Procedure) (England) Order 2015 (as amended) clarifying that ownership of the triangular area concerned is unknown, and that an advertisement to this effect was placed in the Torbay Weekly on 29th January 2026.

Certificate D is required when the applicant does not know the names and addresses of any of the owners of the land involved in the application. As the rest of the Singleton site is already under the ownership of the applicant, then the Forum thinks that Certificate C should have been submitted rather than Certificate D.

A 21-day notice period is required prior to the application being determined. An application is not valid and therefore cannot be determined by the local planning authority, unless the relevant certificate has been completed and appropriate “due process” followed.

5.2 Consistency in Officer Recommendations

This application is an exact “repeat” of that submitted under P/2022/1186 for the Erection of 7 apartments, with the omission of the two adjoining dwellings. This was Refused by Torbay Council on 31/08/23 for reasons including:

“Given the siting, scale, massing and design of the proposal as a whole, the development would fail to reflect local distinctiveness as well as fail to relate acceptably to the Lincombes Conservation Area. The proposal will result in the development of the existing garden which provides an open aspect within the Conservation Area to the detriment of this designated heritage asset. Overall the proposal is considered to fail to conserve or enhance the distinctive character and appearance of the Lincombes Conservation Area and would lead to harm to the designated heritage asset which is not outweighed by public benefit.”

This decision was appealed by the developer to the Planning Inspector and the appeal was DISMISSED on 12th November 2024 for reasons including:

“When considered overall, the proposal would have an adverse effect upon the character and appearance of the LCA and harm its significance.” concluding that “When all matters are weighed in the planning balance, I find that the adverse impacts of proposed development would not be outweighed by the benefits. Although I have found that the proposals would accord with some aspects of local planning policies, there would be conflict with the overall provisions of the development plan and the Framework when read as a whole. Having regard to all other matters raised, I therefore conclude that the appeal should not succeed”.

Appeal Decision APP/X1165/W/23/3333967 <https://www.gov.uk/planning-inspectorate>

The previous application was refused by the Planning Committee because of the size, scale, massing and appearance of the block of flats. Given an identical block is proposed in the latest application, it is inconsistent for the Council’s Principal Heritage & Environment Officer to now state in his consultation report on the latest application: “the overall design approach is considered to be appropriate, and the layout, massing, siting and appearance of the development has been sensitively designed to try to mitigate harm to surrounding designated heritage assets”.

The following two diagrams illustrate the identical nature of both the 2022 and 2025 applications.

5.3 Repeat Applications

As these are effectively “repeat applications” local planning authorities have the power to decline an application for planning permission which is similar to an application that, within the last 2 years, has been dismissed on appeal. The purpose of these powers is to inhibit the use of ‘repeat’ applications that are submitted with the intention of, over time, wearing down opposition to proposed developments.

See <https://www.gov.uk/guidance/making-an-application#Dealing-with-repeat-applications>

6. Conclusions

In summary, the Forum believes that this application should either be withdrawn or refused because:

- The developer does not own all of the site shown on the revised site plan, and by seeking to utilise this additional area of land access to a neighbouring property will be put at risk
- The developer has not followed the correct process in submitting this application
- The new access gate is too close to the highway, contravening the Council’s own guidance
- Demolition of the existing front boundary wall and construction of a new one will threaten important trees, notably the London Plane on the adjacent pavement
- The design of this latest block of flats is an exact copy of a previously submitted design, refused by the Planning Committee and which on appeal was dismissed by the Planning Inspector within the last 2 years
- This is a repeat application submitted with the intention of wearing down opposition to this unacceptable development at the heart of the Lincombes Conservation Area

Planning Policy and Projects Officer

Response dated 13/02/26:

Torbay Council as the Local Planning Authority has a pressing need identify additional housing land in the Torquay area. Development of 7 residential apartments on the site would make a moderate contribution to the area’s housing supply. On that basis, we would support the application from a policy perspective, subject to ecological, heritage, access, design and other relevant matters being satisfactorily addressed.

Torbay Council’s Heritage colleagues’ comments are noted in terms of the current proposal leading to “less than substantial” harm to the Lincombes Conservation Area and the setting of nearby listed buildings which would need to be weighed against the public benefits of the proposal, including where appropriate, securing its optimal viable use in line with the requirements of Paragraph 215 of the NPPF.

With regard to the heritage balance of a previous application (reference P/2022/1186 - the erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing dwelling plus associated landscaping and access work), the appeal decision for the site (APP/X1165/W/23/3333967) concluded;

‘when the harm to the significance of ... heritage assets is weighed with the public benefits this issue is more evenly balanced than was evidently found by the LPA when it determined the application. However, the concern that I have identified above in respect of the likely impact upon a high-quality tree within the LCA, tips the heritage balance against an approval. I therefore conclude on the first main issue that the harm to the significance of heritage assets would not be outweighed by the public benefits of the proposal. The proposal would conflict with the provisions of LP policy SS10. This amounts to a further inconsistency with LP policy H1.’

The Inspector was clear that the impact on the high-quality tree had tipped the heritage balance against an approval. The current application includes a revised access and hardstanding located to avoid impact on high-quality trees (noted by the Inspector appeal as including ‘a mature and very attractive London Plane in Meadfoot Sea Road, mature Sycamore and Monterey Pine trees to the north west of the site and a woodland group to the north’) and associated root protection areas.

The reduced impact and tree protection measures are further supported by the Design and Access Statement section 4.2 ‘Arboriculture’ and an Arboricultural Impact Assessment produced by Aspect Tree Consultancy. The assessment has been approved by the council’s (SWISCo) Tree Officer, subject to recommendations.

The current application is for 7 apartments, where our ‘Planning Contributions and Affordable Housing Supplementary Planning Document (SPD)’ would not call for affordable housing to be provided.

Through a revised layout, and slightly reduced site density, reducing the impact of development on the Conservation Area and the high-quality trees present, the applicant appears to have removed a significant level of harm present in the previous application and improved the heritage balance in favour of approval.

The proposal appears to be CIL liable at £70 per sq.m, as it is within Charging Zone 2.

Principal Historic Environment Officer:

Response dated 08/12/25:

Relevant Policy

Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area, special

attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

This statutory requirement needs to be considered alongside relevant heritage guidance contained in the National Planning Policy Framework (2024) which requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (Para 208).

Paragraph 210 goes on to state that in determining applications, local planning authorities should take account of:

- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.
- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 considers that 'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance'. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification' (Para 213).

Paragraph 215 adds that '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'.

With regards to non-designated heritage assets (NDHA), the NPPF states in paragraph 216, that 'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'

Paragraph 217 adds that 'Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.' If assets are to be lost, paragraph 218 states that 'Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and

to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted’.

Finally, the NPPF requires local planning authorities to look for opportunities for new development within conservation areas to ‘enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably’ (Paragraph 219).

In terms of the Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan).

Policy SS10 states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make up Torbay's built and natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay.

Significance of Identified Heritage Assets:

Designated:

Lincombes Conservation Area

The building [now partially demolished] is a mid-19th century cottage within large grounds enclosed by stone and rendered boundary walls within the Lincombes Conservation Area and is identified as being a ‘key building’.

This part of Meadfoot Sea Road is characterised by the numerous large villas dating from the early 19th Century onwards and being predominantly ‘Italianate’ in their architectural language, with complex accretive massing, heavy articulated eaves detailing and multiple localised symmetries. The plot to building relationships and ratios are noteworthy with large villas set back from the main frontage and sitting within generous gardens.

It is likely that Singleton Gardens was built as a walled garden to serve one of these properties, most probably the house known as Singleton. The walled gardens would have yielded vegetables and top-fruits for the owners, and the historic presence of glasshouses perhaps suggests a desire to impress through the cultivation of tropical crops. This connection is of some local interest, and the surviving boundary walls and open spaces expressed through their former use contribute to the appearance and interest of the Lincombes Conservation Area.

Historically the gardens contained a well, glasshouses and other ancillary buildings. Most of the garden features and structures, which would have been standard in a small walled garden such as this, have been lost or altered and the fabric of the walled

garden has been significantly eroded by cumulative post-war changes and loss. In addition, any historic association and connection with Singleton has also been lost. Currently, a modest dwelling occupies the site. The property itself has been altered in the 20th century with various poor-quality additions and extensions. However, the south elevation remains intact, with a narrow-hipped gable roof visible from a public perspective. [This dwelling has now been partially demolished]

The outbuildings within the site include the greenhouse, which is believed to date to the period between 1933 and 1953 and has been badly repaired and altered over the course of the 20th century. It is of limited heritage value. It should also be noted that permission has recently been granted for its demolition.

The remaining parts of the early house, the garden walls and open spaces of the walled garden do make a positive contribution to the history and character of the conservation area. This is also noted by the planning inspectorate in a recent appeal decision (APP/X1165/W/23/3333967) which states:

“The largely undeveloped/green open qualities of the appeal site and the substantial walls (including the roadside wall) are part of an important record of a mid-late 19th century villa townscape. Although the layout of the walled garden and its inter-relationship with its immediate surroundings have diminished over time, the appeal site assists in maintaining the historic and attractive spacious setting of some neighbouring former villas within this part of the LCA. This is complemented by many of the surrounding mature trees and woodland. This creates an attractive verdant character and a pleasing street scene..... Overall, the appeal site makes a positive contribution to the character and appearance of the LCA”

Singleton – Grade II listed building, Meadfoot Lodge and associated wall and gate piers – Grade II listed building, Palm Grove - Grade II listed building

The recent appeal decision for the site (APP/X1165/W/23/3333967) discusses these assets and the contribution that the site makes to their significance, stating:

“The significance of these 19th century villas (some of which are now in use as flats) is primarily derived from their special architectural and historic qualities. The special architectural interest of these buildings includes their bold scale and sophisticated period detailing, imposing frontages with stuccoed or plastered walls, slate roofs and timber framed sash windows. The historic interest of these designated heritage assets includes their previous role and surviving record as spacious and well-designed dwellings, set within generous garden plots. These properties attracted the wealthy leisured classes to Torbay during the 19th century and assisted in the creation of a fashionable resort. Over time, there have been some alterations and extensions to these properties and changes to their settings. Not all of these changes have resulted in a positive or neutral impact upon their heritage interest.”

“The walled garden of the appeal site forms part of the spacious settings to these three listed former villas. With the exception of a glimpsed view of ‘Palm Grove’ near Ashleigh Court to the north, the site does not assist in understanding or experiencing the special architectural qualities of these designated heritage assets. Nevertheless, in forming part of the record of well-preserved 19th century townscape within this part of Torquay, the appeal sites assists in an appreciation and understanding of the special historic qualities of ‘Singleton’, ‘Palm Grove’ and ‘Meadfoot Lodge’. It makes a positive contribution to their significance and settings.”

Non-Designated:

The site is identified as featuring ‘other key buildings of architectural importance which make a significant contribution to the townscape’ within the Lincombes Conservation Area map and are considered to constitute non-designated heritage assets due to their contribution to the Conservation Area.

Impact on Significance of Heritage Assets:

The proposals are for the formation of 7 apartments within a single apartment block within the centre of the rear of the site. The front of the site would accommodate the existing dwelling, car parking, bin stores and associated landscaping.

The proposal has been the subject of pre-application advice (ref: DE/2025/0040) which considered that the scale, massing and design of the proposed buildings would be appropriate for this sensitive site. It also advised that the relocation of the entrance from that previously refused is considered acceptable from a conservation perspective as is the greater opportunities for frontage landscaping. This advice can still be applied.

This earlier version of the scheme did raise concern over the amount of hardstanding proposed and the impact that this would have on the green open qualities of the site. To address this, the application proposals have included additional soft landscaping within the scheme. This is considered necessary and appropriate.

The retention and sensitive repair of the existing boundary walls is encouraged, and it is advised that details of the proposed methods of repair and sample panels for pointing/render etc. should be secured through condition should the application be approved.

Conclusions:

On the basis of the submitted information and the planning history of the site, the overall design approach is considered to be appropriate, and the layout, massing, siting and appearance of the development has been sensitively designed to try to mitigate harm to surrounding designated heritage assets. However, due to the

inevitable loss of the green open qualities of the site, the proposals do result in an adverse effect upon the character of the Lincombes Conservation Area.

This would result in a low level of “less than substantial” harm to the Lincombes Conservation Area and the setting of nearby listed buildings which would need to be weighed against the public benefits of the proposal, including where appropriate, securing its optimal viable use in line with the requirements of Paragraph 215 of the NPPF. This should be considered within the overall planning assessment of the proposals, although it should be noted that the sensitive repair of the existing boundary walls would be considered to be a minor heritage benefit.

Torbay Council’s Drainage Engineer:

Response dated 22/12/25:

1. The proposed development lies within Flood Zone 1 as identified on the flood Map for planning.
2. The developer has submitted a flood risk assessment (FRA) and a drainage design in support of his application. The scheme proposes infiltration-led SuDS (soakaway crates and permeable courtyard acting as sub-base storage) with separation of foul and surface water. In principle this aligns with national SuDS hierarchy and local CDA expectations.
3. There are some minor issues with design and layout:
 - I. Urban creep allowance (10%) must be included,
 - II. Correct the storage volume typo (currently stated as 6 m³),
 - III. Confirm that all infiltration-based SuDS components, including permeable paving and soakaway structures, are located a minimum of 5 m from building foundations.
4. Confirm that BRE365 infiltration tests were undertaken at the proposed invert level of the soakaway (≈40.5 m) and formation level of permeable paving (≈41.6 m). If not, additional testing at these depths is required to validate infiltration feasibility.
5. If the ground conditions are suitable for infiltration techniques such as soakaways, the soakaways together with the surface water drainage system discharging to the soakaways must be designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100 year storm event plus 50% for climate change and 10% increase in impermeable area to account for urban creep. Similarly, any permeable paving must be designed to demonstrate that there is no flood risk on or off the site for the critical 1 in 100 year storm event plus 50% for climate change.
6. All of the above information will need to be submitted in support of the planning application.

Response dated 08/01/26 following query from planning officer if comments could be addressed by a planning condition:

Yes this condition would be satisfactory.

South West Water:

Response dated 01/12/25:

Please find attached a plan showing the approximate location of a public 2050mm combined sewer in the vicinity. South West Water will need to know about any building work over or within 5 metres of a public sewer or lateral drain.

We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Further information regarding South West Water's build over of sewers process can be found on our website.

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Water re-use (smart water butts, rainwater harvesting, grey flushing toilets)
2. Discharge into the ground (infiltration); or where not reasonably practicable,
3. Discharge to a surface waterbody; or where not reasonably practicable,
4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

Response dated 11/02/26:

South West Water has no additional comments to add, and our comments of 01/12/25 still stand.

Torbay Council's Senior Tree Officer:

Response dated 19/12/25:

No objections to the proposed development. Planning condition to be applied in relation to Arboricultural Method Statements, Tree Protection Plan and soft landscaping.

Officer Report

Statutory Designations (Trees): –
Tree Preservation Order – Applicable.
Conservation area – Applicable.

Application Appraisal / Findings

The application proposes the construction of 7 residential apartments with associated infrastructure and amenity space provision.

Aspect Tree Consultancy (Aspect) have undertaken a BS5837 tree survey. I am in general agreement with their findings and bar some minor changes to tree categorisation (not fundamental to the project), I am satisfied this identifies the constraints correctly.

The proposed layout requires the removal of some low-quality trees from within the site. Options for transplanting several Chusan palms and translocating and replanting within the scheme have been identified to avoid losses and bring maturity into the proposed landscape of the development.

The Arboricultural Impact Assessment produced by Aspect has carefully considered the various elements to the delivery of the project identifying tree losses, risks to retained trees and sets out where protection or Arboricultural Method Statements are required. I am in agreement with their AIA and its recommendations.

An Arboricultural Method Statement (AMS) -Tree Protection Measures, dated 20.8.25 has been prepared and submitted by Aspect. This covers all the areas where trees may at risk from proposed development activity and specifies control measures and working practices which are required. I am satisfied with the AMS and its recommendations.

The principal tree constraining the site is T7 (London plane) which is a council owned street tree within the highway. Provision for its protection through the demolition of and replacement wall construction phases is addressed via an arboricultural watching brief / AMS in combination with tree specific stem protection. This will ensure this T7 can be successfully retained.

Tree protective fencing has been specified in the Tree Protection Plan dwg ref: 05942 TPP 20.08.25. This sets out the working areas and protected areas and means of protection. I am satisfied with this approach and the level of detail provided.

The structural tree planting identified in the soft landscaping plans will deliver a range of evergreen and broadleaf tree species into the frontage of the property, securing a range of tree attributes which will contribute to amenity provision within the Conservation Area.

Recommendations

Secure the Arboricultural Method Statement (Tree Protection Measures) and installation of the Tree Protection Plan through a pre-commencement planning condition.

Secure the soft landscaping plans through an appropriately worded planning condition with the stocking rates, species composition and establishment works specified.

Devon County Council's Ecologist:

Response dated 05/12/25:

Ok, subject to conditions.

Torbay Council's Senior Environmental Health Officer:

Response dated 20/11/2025:

Please could the following condition be included on any consent:

No development (including ground works) or vegetation clearance works shall take place until a Construction Environmental Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. The Statement shall describe the actions that will be taken to protect the amenity of the locality, especially for people living and/or working nearby. It shall include as a minimum provisions for:

- Construction working hours and deliveries 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.
- A noise and vibration management plan, including details of quantitative monitoring of noise and/or vibration to be conducted if deemed necessary by the LPA following justified complaints.
- All plant and equipment based at the site to use white noise reversing alarms or a banksman unless agreed otherwise in writing in the CEMP.
- No driven piling without prior consent from the LPA.
- A detailed proactive and reactive dust management plan, including details of quantitative monitoring of dust emissions to be conducted if deemed necessary by the LPA following justified complaints.
- No emissions of dust beyond the site boundary so as to cause harm to amenity of the locality.
- No burning on site during construction or site preparation works.
- All non-road mobile machinery (NRMM) based at the site shall be of at least stage IIIB emission standard (or higher if stage IIB has not been defined for the type of

machinery) unless agreed otherwise in writing in the CEMP.

- The site access point(s) of all vehicles to the site during the construction phase.
- The areas for loading and unloading plant and materials.
- The location of the site compound and details of how power will be provided to the compound (use of a generator overnight will not normally be considered acceptable).
- The location of storage areas for plant and materials. This should include the location of stockpiles of topsoil and sub soil.
- The erection and maintenance of securing hoarding, if appropriate. (Hoarding is to be kept free of fly posting and graffiti).
- Arrangements for communication and liaison with local residents, including regular letter drops and a dedicated contact number for complaints.

The approved Statement shall be strictly adhered to throughout the construction period of the development.

Reason: To protect the amenity of the locality, especially for people living and/or working nearby.

Contaminated Land

Please could you ask for the applicant to submit a land contamination risk assessment? This development is for an end use that would be particularly sensitive to contamination, so at least a phase 1 (desk study) a risk assessment is required. Once the report is submitted I can make comments about suitable conditions, if required.

Response dated 03/02/2026:

I have reviewed the above application and have no comments to add to my previous response.

Police Designing Out Crime Officer:

Response dated 21/11/2025:

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision-making process for the planning authority the following is to inform the applicant: -

ADQ creates security requirements in relation to all new dwellings. All doors that provide entry into a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24.

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member

Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors and windows Accredited Product Search for Windows are not only tested to meet PAS 24 (2022) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products. Secured By Design is a free from charge police owned crime prevention initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places and more secure places.

The communal door should be tested and certificated to a national security standard such as PAS 24:2022+A1:2024 as a minimum. It should also have a self-closing and locking mechanism to prevent the door from being inadvertently left open.

There should also be a visitor door entry system and access control to enable management oversight of the security of the building. The visitor door entry system should allow the resident and visitor to have a two-way conversation. As well as audio it would be recommended there was a video capability to allow the resident to visually identify the visitor, prior to granting access, it would also be beneficial if this displayed the image prior to the resident granting access so they can decide whether to answer or not. The system should allow the occupant to remotely operate the electric locking device from their terminal to grant access to the visitor. Please note I would not support the system that has a trades persons or time released mechanism. The access control system should grant access to authorised users by means of a key card or fob. The system should be able to be restricted certain times of the day for some users, such as maintenance staff as an example. The system should have the facility to record and identify the location, user, type, time and date of every system event and store this for no less than 30 days. It should also be fully programmable enabling the system controllers to manage the system via remote access as well as being able to expeditiously delete lost or stolen proximity cards or key fobs. These fobs, cards should be security encrypted to prevent copying.

Its noted there is an internal lobby area being proposed which is supported, it would be recommended this second door is lockable and to contain a mail delivery system and or utility meters so to prevent onward movement into the residential aspect of the development.

All ground floor windows including any easily accessible ones should be fitted with window restrictors to prevent reach in burglaries.

If loft hatches are proposed to be inside communal areas these should be lockable to prevent unauthorised access.

It's welcomed to see that waste bins will be secured within an enclosure. It is also recommended that bicycle rack is certified to one of the following standards.

- LPS 2081 Issue 1 Security Rating A, or
- STS 225 Issue 2 Burglar Resistance BR1(S), or
- STS 205 Issue 8 Burglar Resistance BR1, or
- LPS 1175 Issue 8 Security Rating A1, or
- Sold Secure SS104 Bronze, or
- STS 501 Security Rating TR1, or
- STS 503 Security Rating TR1.

All rear boundary treatments must be robust and attain a height of 1.8m to prevent unauthorised access.

WSP on behalf of the Local Highway Authority:

Response dated 10/12/2025:

1.0 Description of Proposal

A planning application has been submitted for the construction of 7 residential apartments, with landscaping, parking, access and associated works at Singleton Gardens, Meadfoot Sea Road, Torquay TQ1 2LQ.

2.0 Site Description

The proposed site is 0.2 hectares and is located on Singleton Gardens within the Lincombes Conservation Area. The proposed site is surrounded by a mixed-use area of residential apartments and hoteliers with the site being adjacent to Singleton, a Grade II listed building. The site also borders Singleton Manor to the west.

The proposed site is located a 19-minute walk west to Torquay Town Centre and a 36-minute walk west to Torquay train station. There are two bus service stops 20m west of the proposed site. Both bus stops service the 62 and the 64 which provide access to Torquay Town Centre.

3.0 Site History

The site has been subject to two refused applications:

- 9 apartments and 2 semi-detached dwellings (P/2021/0802) – the application was refused due to proposed siting, scale and design of the dwellings
- 7 apartments and 2 attached dwellings (P/2022/1186). – The application was refused due to potential incursion on the London Plane Tree

4.0 Traffic Impact

Trip Generation

No trip generation has been submitted as part of this submission. Due to the size of the development proposed, it is considered that the level of anticipated trips generated by the proposed development will not result in a severe impact on operation or capacity of the local highway network.

Highway Safety

The Highway Authority have reviewed the Personal Injury Collisions (PIC) which highlights no highway safety concerns near the site.

5.0 Design Considerations

Pedestrian and Cycle Access

It is understood that pedestrian and cycle access will be via the existing entry point to the proposed site on Meadfoot Sea Road. Meadfoot Sea Road in a westerly direction is considered to be the main route into Torquay town centre. Therefore, the applicant should consider implementing tactile paving on the junction of Higher Woodfield Road and Meadfoot Sea Road to improve continuity for all users and mobility types.

Cycle Parking

Drawing 818.11B shows 7 cycle parking spaces on the lower ground floor, with 6 in a store and 1 in the parking basement. The Design Access Statement shows that cycle parking is intended to be vertical racking, this is unsuitable for users which may have mobility issues, and these style of racks are unsuitable for modern e-bikes which are heavier with typically wider tyres. Sheffield stands would be the ideal arrangement. Additionally, all cycle parking should be located in the same secure area, it is questioned as to why one cycle parking space is located alone in the car garage area.

Public Transport Access

The nearest bus stops are located 20m west of the proposed site and are located on the northside and the southside of Meadfoot Sea Road. The bus stops service the 64 and 62 which provide access to Torquay Town Centre. The bus stops do not have bus stop markings, shelters, real time information or Kassel Kerbs. Signage for the bus stops is also lacking / impeded by vegetation. The applicant must ensure that bus stops are attractive and suitable for all users and mobility types. At a minimum, Kassel Kerbs should be provided to enable level boarding.

It should also be ensured that safe crossing between the nearest bus stops can be achieved for all users and mobility types.

Torquay is the nearest train station and is located a 36-minute walk west from the proposed site. It serves nearby towns and provides connections to the southwest.

Vehicular Access and Car Parking

Vehicular access is proposed off Meadfoot Sea Road through slight alterations to the existing arrangement. The access is to be re-angled and gated. As set out in Torbay Highways Design Guide, any gates must be set back 6 metres from the highway and open inwards to avoid impeding movements on Meadfoot Sea Road.

The applicant proposes 10 on-site parking bays, including a disabled parking bay, which is in line with the Torbay Local Plan parking standards. 7 parking bays are proposed underneath the apartment building and 3 are proposed in the courtyard area. The applicant has provided swept path drawings for the 7 parking bays underground for vehicles accessing and egressing each parking spot (JG.73.21-JG01 2, JG.73.21-JG02 2, JG.73.21-JG03). The arrangement looks tight, but manoeuvring is possible.

The applicant has proposed 8 EV charging points (one EV charge point located outside, 7 located in the underground car park), which is above the recommended provision of Appendix F of the Torbay Local Plan and therefore suitable.

The applicant has further provided visibility splays for vehicles egressing out of the proposed site. The visibility splays provided show adequate visibility east and west out of the site entrance for vehicles accessing and egressing.

Refuse / Servicing / Emergency Access

The applicant has provided a drawing for emergency vehicles (JG04425-JG02) which shows an emergency vehicle egressing and accessing the site in a safe manner. Drawing 818.10D shows the location of refuse storage and collection inside the front entrance to the proposed site. The drawing shows the refuse storage to be in a secure location, and easily accessible to refuse vehicles.

The waste strategy should be detailed. It is unclear if the site will be served by SWISCO or a private waste collection service.

6.0 Construction Traffic Management Plan (CTMP)

If the application is granted planning permission, the Highway Authority may request by way of condition that a Construction Traffic Management Plan is submitted prior to any construction.

6.1 Conclusion

The Highway Authority has identified minor issues which should be addressed prior to a positive recommendation being made. The applicant should:

- Demonstrate that safe access to nearby bus stops and local amenities can be achieved for all users and mobility types in line with DfT Inclusive Mobility Guide
- Update the cycle parking arrangement to be suitable for all cyclists, with all cycles to be located in one secure area
- Demonstrate that the site access gate will be set 6m back from Meadfoot Sea Road
- Clarify the refuse collection arrangement

Planning Officer Assessment

Key Issues/Material Considerations

1. Policies Relating to Housing Development
2. Design, Visual Appearance and the Character of the Area
3. Heritage
4. Impact on Residential Amenity
5. Impact on Highway Safety
6. Trees
7. Ecology and Biodiversity
8. Flood Risk and Drainage
9. Designing Out Crime
10. Low Carbon Development
11. Other material considerations including housing supply and the NPPF

1. Policies Relating to Housing Development

The proposal is for the formation of seven apartments with a modified access and associated parking provision and landscaping.

There is a pressing need for homes in Torbay. The Government published the most recent Housing Delivery Test in December 2024. Torbay's result is 66%. The Council have recently reported that their housing land supply figure has decreased to 1.72 years through a recent planning appeal (ref: APP/X1165/W/24/3354507) and the Council's most recently published figure is 1.65 years supply. The Housing Delivery Test requires that the presumption in favour of sustainable development and a 20% buffer be applied as per Paragraph 11 of the NPPF.

Policies SS12, SS13 and H1 of the Local Plan seek to provide sufficient housing in Torbay and to maintain a five year land supply. Policies SS13 and SS3 of the Local Plan set out a "presumption in favour of sustainable development" for housing separate to the NPPF. This is returned to later in relation to the NPPF and operation of the Presumption in Favour of Sustainable Development; but it is noted that the Local Plan contains policies that seeks to give favourable consideration to new housing (subject to other considerations) separately from the NPPF.

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. Proposals for new homes on unallocated sites, including the renewal of existing permissions, will be assessed on the basis of set criteria, proportionate to the scale of the proposal.

Policy SDT1 of the Local Plan sets a target of 3955 dwellings for the Torquay Neighbourhood Plan area over the period 2012-30 (about 220 a year), with the main foci being the town centre and Waterfront and Torquay Gateway. The Lincombes is not specifically mentioned in Policy SDT1 but all development is required to (inter alia) conserve or enhance the historic and natural environment.

The site is not allocated for housing in Policy TH1 of the Neighbourhood Plan. Policy TS4 of the Neighbourhood Plan directs development towards brownfield sites. It only supports development of greenfield sites where allocated or the loss is required to meet the “strategic economic policies within the Local Plan”.

This broad position on housing is subject to a detailed assessment of the proposal’s performance against policies in the Local and Neighbourhood Plan on a wider range of matters. This is carried out below.

2. Design, Visual Appearance and the Character of the Area

It is important to note that achieving good design is a central thread within national guidance and Chapter 12 of the NPPF “Achieving well-designed places” offers key guidance on this. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 goes on to state 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 139 states that “development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes”. 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 Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The site is the curtilage land of a residential dwelling on the northern edge of Meadfoot Sea Road. The site relates solely to the curtilage land of the dwelling, the red line does not include the location of the partially demolished dwelling on the site. As noted within the site description, the residential dwelling within the blue line was modest in scale within a large plot prior to its partial demolition.

The grounds of the plot gradually raise up from south to north forming terraces separated by stone walls. The natural stone walls define the site due east, west and north, whilst the southern boundary, along Meadfoot Sea Road, is a rendered wall. The partially demolished dwelling within the blue line area occupies the south-western corner of the wider site. There is an existing vehicular access at the south-east corner of the site off Meadfoot Sea Road.

The proposal seeks permission for the formation of seven apartments with a modified access and associated parking provision and landscaping.

The proposed apartment block would be four storeys in height, with a maximum approximate height of 12.2m from the south elevation, with the lower ground floor built

into a re-built stone boundary wall which runs horizontally through the site and would be sited in the rear section of the plot. The proposed apartment block would have an asymmetrical appearance. The south elevation features the lower ground floor level in limestone, with breaks in the stone for the vehicular access to the undercroft parking area, the pedestrian access to the flats and openings serving the lower ground floor level flat. This elevation features two predominant two storey rendered blocks with openings serving the flats. A central vertical block finished in zinc standing seam vertical cladding is proposed alongside two recessed blocks, also finished in zinc standing seam vertical cladding at the top, second floor level. The rear north elevation features a similar arrangement but due to the topography, the lower ground floor level is built into the land. The eastern side elevation features a lower ground floor level of limestone which adjoins the re-built stone boundary wall. The upper ground floor and first floor feature render whilst the recessed second floor level features zinc standing seam vertical cladding. The western side elevation is built into the topography of the land with three, two storey rendered blocks apparent at upper ground floor and first floor level and a recessed second floor level finished in zinc standing seam vertical cladding. Powder coated aluminium framed doors and windows are proposed throughout the building with dark grey pressed metal rainwater goods. Glass and stainless steel balustrading is proposed around the building serving patio/terraces formed at upper ground floor and second floor level and Juliet balconies at first floor level.

The proposal seeks to block up the existing vehicular access and form a new vehicular and pedestrian access to the west of the existing access with a set back gate for vehicle entry and a separate pedestrian access gate. The existing rendered wall with concrete capping facing Meadfoot Sea Road will be replaced with a stone wall. Internally within the courtyard area, a bin store will be formed alongside a courtyard parking area with areas of planting and vegetation to break up and soften the appearance. The courtyard will lead to an undercroft parking area serving the apartments and a separate pedestrian entrance into the apartment building. The apartments will be served by a number of private terrace areas and gardens in addition to a shared garden at the rear.

National and local planning policy emphasises the importance of design. It should be noted that the applicant entered into two pre-application enquiries and two Torbay Design Review Panel workshops (the reports from the Design Review Panels can be read in full on application P/2021/0802) prior to submitting application P/2021/0802 for the *formation of 9 apartments & 2 semi-detached dwellings with access, garages & parking. Demolition of existing outbuildings. Alterations & extensions to existing dwelling to include 2 storey extension to side.* This application was refused by the planning committee in March 2022 (the reasons for refusal can be read in the 'relevant planning history' section of this report). Following the refusal, the applicant entered into a further pre-application enquiry and submitted P/2022/1186 for the *erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing*

dwelling; plus associated landscaping and access work. This was refused by the planning committee in August 2023 (the reasons for refusal can be read in the 'relevant planning history' section of this report) and subsequently dismissed at appeal. Since the appeal decision a further pre-application enquiry has been submitted and the current application attempts to address the appeal decision and advice given at the pre-application stage.

This part of Meadfoot Sea Road is characterised by the most significant buildings being 'Italianate' in their architectural language, with complex accretive massing, heavy articulated eaves detailing and multiple localised symmetries. The plot to building relationships and ratios are noteworthy with large villas set back from the main frontage and sitting within generous gardens, visible verdant landscape and orientated somewhat to gain sea views. The streetscene and locality benefits from mature trees, including an off-site street tree (T7 London Plane) owned by Torbay Council.

The proposed apartment block which was part of refused application P/2022/1186 is very similar to that detailed within the current application. The key differences between these applications are the removal of the semi-detached dwellings in the south east corner of the plot, the removal of works to the existing dwelling (this is covered by separate enforcement action and an approved planning application), the alteration of the location of the new access to be sited further away from the London Plane street tree and alterations to the courtyard to include additional landscaping.

The appeal decision of APP/X1165/W/23/3333967 relating to P/2022/1186 noted the following:

19. The design of the building would be unashamedly modern, with an asymmetrical frontage comprising a central vertical block (finished in zinc effect cladding) flanked on either side by lower height, recessed, rendered blocks that would protrude slightly forward. As explained within the appellant's Design and Access Statement, this would be reflective of the historic form of some villa complexes which have taller façade sections with lower, more demur service wings. To assist in breaking up the overall mass of this building the upper floor would be recessed away from the parapets.

20. The proposed set-backs, variation in heights of the building blocks and the palette of materials, which include powder coated aluminium openings and dark grey metal rainwater goods, would ensure that the scale, massing and design of this apartment building is appropriate for its context. I note that the LPA's planning officer made a similar finding in their report to committee.

21. Some of the space in front of the apartment building would comprise a hard surfaced area in which to accommodate some of the necessary vehicular parking/turning and bin storage. This would be softened by new landscape

planting. The proposed two storey dwellings would be built on the eastern side of this parking area and with the refurbished/extended dwelling ('Singleton Gardens') opposite, the development would create the impression of a courtyard in front of the main apartment block. The proposed alterations to the existing dwelling would enhance its appearance within the LCA.

25. Notwithstanding the above, there is no escaping the fact that the proposed apartment complex, parking area, hard surfaces and the two new dwellings would considerably erode the undeveloped/green open qualities of the appeal site. In so doing, this would have an injurious impact upon this area of mid-late 19th century villa townscape. I concur with the thrust of the remarks made by the Victorian Society. The proposal would significantly alter the character of the site, harming its historic legibility in connection to nearby historic villas and the contribution it makes to the LCA. To a limited extent, the increase in activity in and around the site would also diminish the tranquil qualities of this part of Meadfoot Sea Road and the loss of the ice house/bothy would be somewhat unfortunate. In addition, it is unclear to me whether the glimpsed view from the north east and across the site to 'Palm Grove' would be lost.

26. The proposed development would also entail the construction of a new vehicular access onto Meadfoot Sea Road. The rebuilding of the roadside wall on either side of this new entrance (using natural stone) and the reduction in width of the existing access, limiting its use to pedestrians only, would provide some modest enhancement within the streetscene.

35. I have found above that the scale, massing and design of the proposed buildings would be appropriate and would comprise high quality buildings that reflect elements of substantial Victorian villas that exist within the LCA. The proposal would also improve the appearance of the existing dwelling on the site. Rebuilding the roadside wall in natural stone and the new tree and landscape planting would also enhance the appearance of the area. Nevertheless, I have also found that the proposal would erode the undeveloped / green open qualities of the site and risk harming an important mature tree.

The design has presented an asymmetrical design with variations in height, massing and material composition. The articulation within the building design is considered to help to reduce the bulk and massing. The overall ridge height is lower than that of the adjacent 'Meadville' and 'Osbourne House'. The proposed apartment block will at its highest point sit approximately 4.43m higher than the adjacent White Lodge. Given the topography, the road slopes from west to east, and the height of the apartment block will follow a natural stepping down in height, and the height is therefore considered to fit comfortably within the streetscene.

The proposal would retain the feature of prominent walls within the site by utilising a limestone wall running east to west in the design of the apartment block which will replace the existing internal dividing wall. The existing rendered wall with concrete capping facing Meadfoot Sea Road would be replaced with a stone wall. The existing wall varies in height with a staggered section next to the location of the partially demolished dwelling. The height of the existing wall varies from approximately 3.52m high at its highest point and measures approximately 1.8m high next to the existing entrance pier. The replacement wall will measure approximately 2.2m high next to the location of the partially demolished dwelling and varies in height as it follows the topography. The replacement wall is considered to result in an improved visual appearance to the streetscene due to the use of materials. The overall layout and siting of the principal elements of the development are considered to respond to the typical villa type layout, with space around the building, sensitive proportions, in-keeping with key and important buildings within the Conservation Area. The proposal also retains the ability to view the trees to the rear, enabling it to be assimilated into the background. Overall, as found within the appeal decision, the scale, massing and design of the proposed building would be appropriate and would comprise a high quality building that reflects elements of substantial Victorian villas that exist within the Conservation Area.

The removal of the two proposed semi-detached dwellings from the previous scheme with the introduction of additional landscaping in the courtyard has reduced the erosion of the undeveloped and green open qualities of the site which the appeal decision raised concerns with and helps to significantly break up the built form and hard surfacing within the site. All the units have sufficient garden space or access to open space, and it is considered that the balance of hard and soft landscaping is acceptable.

The development as a whole will not be dominant and visually intrusive and the overall size, scale, massing and visual appearance is considered to result in an acceptable visual appearance that retains local distinctiveness and sense of place and is in keeping with the character and appearance of the area. The development as a whole is considered to accord with Policy DE1 of the Local Plan and Policy TH8 of the Neighbourhood Plan.

Planning conditions are recommended to secure landscaping, suitable boundary treatments, materials and window and door details to ensure that a suitable form of development is undertaken and to secure high quality details to reflect the context.

3. Heritage

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) sets out the general duty as respects Conservation Areas, which requires Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Similarly, Section 66 of the 1990 Act sets out the general duty as respects listed buildings, which requires Local Authorities to 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.

Paragraph 212 of the NPPF states that:

'when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.'

The site is situated within the Lincombes Conservation Area. Within the Lincombes Conservation Area map, the partially demolished dwelling (within the blue line), greenhouse (now demolished) and an outbuilding are noted as other key buildings of architectural importance which make a significant contribution to the townscape. The site is adjacent to 'Singleton' (Grade II listed) and 'Palm Grove' (Grade II listed) is located on the opposite side of Meadfoot Sea Road and to the north west the nearby 'Meadfoot Lodge' and 'wall and gate piers to the west of Meadfoot Lodge' are Grade II listed. The buildings listed as 'other key buildings of architectural importance which make a significant contribution to the townscape' within the Lincombes Conservation Area map are considered to constitute non designated heritage assets due to their contribution to the Conservation Area and these include, but are not limited to, 'Osbourne House', 'Delamere Court' and 'Marstan Hotel'. The application has been supported by a heritage significance assessment which analyses the site, the historic environment records, the heritage value and significance of the site and assesses and discusses the design response put forward, with reference to policy and heritage considerations.

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.

Historic England were previously approached with a request to add the site to the Register of Parks and Gardens of Special Historic Interest in England. A decision was made on the 26th January 2023 not to list the site. Historic England in their consideration confirmed:

The walled garden at Singleton Gardens historically had some connection to one of the grand mid-C19 villas nearby, most probably the house known as Singleton. The walled gardens would have yielded vegetables and top-fruits for

the owners, and the historic presence of glasshouses perhaps suggests a desire to impress through the cultivation of tropical crops. This connection is of some local interest, and the surviving boundary walls and open spaces expressed through their former use contribute to the appearance and interest of the Lincombes Conservation Area. However, the layout and features shown on mapping from the C19 to the post-war period have largely been lost. The garden structures in the south-west corner of the southern garden have been altered and converted to a modern house. The 'icehouse' has some architectural merit, but it has also been altered and alongside vagaries about its purpose, it cannot itself have any claims to special interest. Additionally, the separation in ownership in the post-war years has divorced the garden of any contextual connection to Singleton. Any natural or biodiverse interest which the gardens have is not relevant to this listing assessment. Therefore, judged against the criteria for listing the walled garden and its associated structures at Singleton Gardens, Torquay do not merit listing for the following principal reasons:

Lack of architectural interest:

- * most of the garden features and structures, which would have been standard in a small walled garden such as this, have been lost or altered;*
- * the 'icehouse' has some architectural merit, but alterations and uncertainty of use reduces any claims to special interest.*

Lack of historic interest:

- * any historic association and connection with Singleton has been lost;*
- * the contribution of the garden to this area of Torquay and its villa residences is of local rather than national interest.*

CONCLUSION The walled garden and its associated structures at Singleton Gardens, Torquay, dating to the mid-C19 with alterations and losses, do not meet the criteria for listing in a national context.

Following this decision, a further request was made to Historic England to reconsider listing the site. A decision was made on the 11th July 2023 not to list the site with the following comments made:

Singleton Gardens is understood to have been constructed between 1836 and 1861 and is therefore part of the initial period of villa development in Torquay. Other villas on the Palk estate with walled gardens, such as at the neighbouring Osborne Villa, and at Vomero (1838) in the Warberries area, are shown on the 1880 OS map but they were not of a comparable size. These and other smaller walled gardens have largely been lost to development pressures, so the survival of the boundary walls to two of the three compartments of the walled garden for Singleton is a rarity for the area.

However, any significance of the walled garden as a surviving C19 walled garden needs to be carefully balanced against its surviving fabric and layout. The structures that do survive (walls and bothy structure) do not display particularly interesting or unusual elements of construction or function. Other elements including the glasshouse bases and gardener's cottage are now fragmentary, as successive changes have been made to their rather modest historic fabric. The layout of the walled garden and its inter-relationship with its immediate surroundings has also largely been lost reducing the impact of the walled garden within its marine landscape and therefore any claims to interest for this. It does not survive as a particularly good or well preserved example of a walled garden.

Claims have been made for the significance of Torquay's mid-C19 planned suburban villa landscape as part of the national trend in the development of seaside resorts in the C18 and C19, and that the construction and survival of the walled garden at Singleton contributes to this significance. It is clear that the scale and quality of the villa developments in the Warberries and Lincombes areas of Torquay over a short period of time is notable, and this interest is reflected in those areas being designated as separate conservation areas, within which many of the C19 villas and their associated boundary walls and gate piers are listed. Smaller details such as street signs, granite kerbs, cobbled surfaces all contribute to the history and character of the conservation area, as do the boundary walls and open spaces of the walled garden at Singleton. Torquay's place within the contextual history of suburban coastal and urban villa developments of the time is undeniably of importance, but it is not considered that this was uniquely innovative, particularly at the level as is claimed. The recognition of this at conservation area level is regarded as being an appropriate designation.

Claims for historic association have also been made for the walled garden. The only known significant figure associated with Singleton and its walled garden is Reverend Canon Alan Campbell Don KCVO (1885-1963), who, with his brother was put in trust of Singleton in the early 1940s, selling the garden in 1945. At no point did the Dons live at Singleton and therefore no claims to special associative historic interest can be made. Wider claims have been made for the town with various notable visitors and personalities attached but none of these relate directly to Singleton or its walled garden.

In terms of the significance of the suburban villa landscape in Torquay, this interest is recognised by many of the villas being listed at Grade II, and the designation of conservation areas. The history of the walled garden associated with Singleton adds an important layer to the understanding of the area, although little specific documentation is currently known to survive. Whilst it is

recognised that Singleton Gardens is an unusual survivor, any claims to rarity or uniqueness are rather unaccomplished. With this in mind, and considering the considerable losses to its historic fabric, associated structures and layout, the walled garden known as Singleton Gardens is not considered to meet the criteria for Registration.

CONCLUSION

After examining all the records and other relevant information and having carefully considered the historic interest of the case, the criteria for the registration of the walled garden associated with the property known as Singleton Gardens, Torquay, Devon are not fulfilled.

REASONS FOR DESIGNATION DECISION

The walled garden associated with the property known as Singleton Gardens, Torquay, Devon is not recommended for inclusion on the Register of Historic Parks and Gardens for the following principal reasons:

Historic interest:

- * the features of the walled garden are modest for this type of structure and gardens of the period and it does not survive as a notable example of a particularly important phase of garden development;*
- * Singleton and its walled garden contribute to an understanding of the early-C19 development of Torquay and the walled garden is recognised as being an uncommon survivor, however this is not sufficient to raise the level of interest to that required for national designation.*

Degree of survival:

- * the fabric of the walled garden has been significantly eroded by cumulative post-war changes and loss;*
- * the loss of the pathway layout within the walled garden and removal of the access from Singleton has reduced the understanding of the patterns of movement around the garden.*

The Council has assessed if the site should be considered curtilage listed and has considered the detailed representations previously received, including the comments made by Historic England.

Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that any object or structure within the curtilage of a listed building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building. The object or structure is considered to be part of the listed building and is listed (these structures are often called "curtilage listed"). This only applies to objects or structures ancillary and

subordinate to the listed building itself (*Debenhams plc v Westminster City Council* (1987) AC 396).

In the case of *Methuen-Campbell v Walters* [1979] QB 525 the court held that property will be within the curtilage of another property if it is so intimately associated as to form part and parcel of it and this will depend on the circumstances of every case. The curtilage may be confined to a small area around the principal property but not necessarily so and again this will depend on all the circumstances, including the nature and location of the properties.

In *Attorney-General, ex rel Sutcliffe, Rouse and Hughes v Calderdale Borough Council* [1983] JPL 310, the Court of Appeal concluded that the following factors should be taken into account in determining whether or not a structure or object was within the curtilage of the principal listed building:

- The physical layout of the listed building and the structure or object.
- The ownership of the listed building and the structure or object, both past and present.
- The use or function of the listed building and the structure or object, both past and present.

In *Hampshire CC v Blackbushe Airport Limited* [2021] EWCA Civ 398, the court held that the land must be so intimately connected with the building as to lead to the conclusion that the former is in truth part and parcel of the latter.

The question is whether the structures within the application site were within the curtilage of any listed building when that building was listed.

'Singleton' was Listed Grade II on 10 January 1975. The listing states that it preserves its C19 garden plot. 'Meadfoot Lodge' was listed Grade II on 2 May 1974. The listing entry states that the building was already in use as holiday flats.

'Singleton Gardens' consists of 2 parcels of land, forming a series of 4 smaller walled areas set between a number of historic villas, north of Meadfoot Sea Road. On the basis of the evidence we have, our conclusions on the curtilage listing of the site are as follows:

Meadfoot Lodge:

'Singleton Gardens' does not appear to be within the curtilage of 'Meadfoot Lodge'. 'Meadfoot Lodge' is recorded as being in use as flats when it was listed. There is no known connection between 'Singleton Gardens' and 'Meadfoot Lodge' on the basis of

ownership, physical layout or use/function. As noted below it appears that 'Singleton Gardens' was sold off from 'Singleton' in 1945.

Singleton:

- Physical layout: Reviewing the available historic documents, the title plan to 'Singleton' indicates that it has laid out gardens and appears unconnected with 'Singleton Gardens'. It is also separated by a belt of mature trees indicating the length of time this separation has been in place. There is a linear common boundary running from Lincombe Drive to Meadfoot Sea Road which would also appear to show separation. The issue is whether the layout means 'Singleton Gardens' is so intimately associated as to form part and parcel of 'Singleton'. Reviewing the layout of both sites (whether or not used together or in common ownership) it appears that the layout does not demonstrate intimate association. The listing of 'Singleton' refers to the retention of its garden plot. It does not refer to any walled garden greenhouses or market garden. Whilst not conclusive this strongly indicates that 'Singleton Gardens' was not considered to be part of the listing of 'Singleton'.

- Ownership: The title to 'Singleton' contains the following entry: The land has the benefit of the following rights reserved by a Conveyance of 'Singleton Gardens' adjoining the south-east corner of the land in this title dated 14 September 1945. The title to 'Singleton Gardens' contains a corresponding entry that the land is subject to the provisions of the 1945 conveyance. This shows that 'Singleton Gardens' was sold off in 1945 prior to 'Singleton' being listed.

- Use or function. Historic mapping appears to show some smaller structures, likely glasshouses/greenhouses, within the sites although the number of these appears to have fluctuated over time, with many being removed or demolished as the site has evolved. The use of site as a whole following its sale in 1945, appears to have been walled gardens completely separate to 'Singleton'.

Only ancillary structures would be curtilage listed. As mentioned above the use as a walled garden appears to be independent of any listed building. In addition, 'Singleton Gardens' itself is an independent dwelling. If the use commenced prior to the listing of 'Singleton' then it would not be curtilage listed in any event.

On the basis of the evidence we have, we consider that the structures in 'Singleton Gardens' are not curtilage listed.

The small outbuilding on the west boundary is proposed to be demolished. The heritage assessment states that this is an 19th century outbuilding, much altered by mid 20th century extensions and a new shallow pitched roof. The walls are in poor condition and appear to be added to the earlier boundary. Historic England in their consideration of the listing note that '*The structures that do survive (walls and bothy*

structure) do not display particularly interesting or unusual elements of construction or function. Other elements including the glasshouse bases and gardener's cottage are now fragmentary, as successive changes have been made to their rather modest historic fabric. The 'icehouse' [outbuilding on the west boundary] has some architectural merit, but it has also been altered and alongside vagaries about its purpose, it cannot itself have any claims to special interest.' The appeal decision notes in paragraph 13 that *'the other surviving outbuilding (variously identified in the representations as a bothy or ice house) appears to be a remnant of the previous use as a kitchen garden. It does not display any particularly interesting or unusual elements of construction or function and makes only a very minor contribution to the historic interest of the LCA.'* The proposed demolition of this structure is therefore considered to be acceptable given the low level of special interest and historic fabric.

The Council's Principal Historic Environment Officer notes within their consultation response:

The remaining parts of the early house, the garden walls and open spaces of the walled garden do make a positive contribution to the history and character of the conservation area. This is also noted by the planning inspectorate in a recent appeal decision (APP/X1165/W/23/3333967) which states:

"The largely undeveloped/green open qualities of the appeal site and the substantial walls (including the roadside wall) are part of an important record of a mid-late 19th century villa townscape. Although the layout of the walled garden and its inter-relationship with its immediate surroundings have diminished over time, the appeal site assists in maintaining the historic and attractive spacious setting of some neighbouring former villas within this part of the LCA. This is complemented by many of the surrounding mature trees and woodland. This creates an attractive verdant character and a pleasing street scene..... Overall, the appeal site makes a positive contribution to the character and appearance of the LCA"

Singleton – Grade II listed building, Meadfoot Lodge and associated wall and gate piers – Grade II listed building, Palm Grove - Grade II listed building:

The recent appeal decision for the site (APP/X1165/W/23/3333967) discusses these assets and the contribution that the site makes to their significance, stating:

"The significance of these 19th century villas (some of which are now in use as flats) is primarily derived from their special architectural and historic qualities. The special architectural interest of these buildings includes their bold scale and sophisticated period detailing, imposing frontages with stuccoed or plastered walls, slate roofs and timber framed sash windows. The historic

interest of these designated heritage assets includes their previous role and surviving record as spacious and well-designed dwellings, set within generous garden plots. These properties attracted the wealthy leisured classes to Torbay during the 19th century and assisted in the creation of a fashionable resort. Over time, there have been some alterations and extensions to these properties and changes to their settings. Not all of these changes have resulted in a positive or neutral impact upon their heritage interest.”

“The walled garden of the appeal site forms part of the spacious settings to these three listed former villas. With the exception of a glimpsed view of ‘Palm Grove’ near Ashleigh Court to the north, the site does not assist in understanding or experiencing the special architectural qualities of these designated heritage assets. Nevertheless, in forming part of the record of well-preserved 19th century townscape within this part of Torquay, the appeal sites assists in an appreciation and understanding of the special historic qualities of ‘Singleton’, ‘Palm Grove’ and ‘Meadfoot Lodge’. It makes a positive contribution to their significance and settings.”

Non-Designated:

The site is identified as featuring ‘other key buildings of architectural importance which make a significant contribution to the townscape’ within the Lincombes Conservation Area map and are considered to constitute non-designated heritage assets due to their contribution to the Conservation Area.

The proposal has been the subject of pre-application advice (ref: DE/2025/0040) which considered that the scale, massing and design of the proposed buildings would be appropriate for this sensitive site. It also advised that the relocation of the entrance from that previously refused is considered acceptable from a conservation perspective as is the greater opportunities for frontage landscaping. This advice can still be applied.

This earlier version of the scheme did raise concern over the amount of hardstanding proposed and the impact that this would have on the green open qualities of the site. To address this, the application proposals have included additional soft landscaping within the scheme. This is considered necessary and appropriate.

The retention and sensitive repair of the existing boundary walls is encouraged, and it is advised that details of the proposed methods of repair and sample panels for pointing/render etc. should be secured through condition should the application be approved.

Conclusions:

On the basis of the submitted information and the planning history of the site, the overall design approach is considered to be appropriate, and the layout, massing, siting and appearance of the development has been sensitively designed to try to mitigate harm to surrounding designated heritage assets. However, due to the inevitable loss of the green open qualities of the site, the proposals do result in an adverse effect upon the character of the Lincombes Conservation Area.

This would result in a low level of “less than substantial” harm to the Lincombes Conservation Area and the setting of nearby listed buildings which would need to be weighed against the public benefits of the proposal, including where appropriate, securing its optimal viable use in line with the requirements of Paragraph 215 of the NPPF. This should be considered within the overall planning assessment of the proposals, although it should be noted that the sensitive repair of the existing boundary walls would be considered to be a minor heritage benefit.

The replacement of the horizontal stone dividing wall with a rebuilt stone wall, which the development will be built into and attach to, is considered to retain the characteristic of the walled garden and separation within the site, therefore not resulting in a detriment to the historic significance of this feature. The northern, eastern and western boundary walls will be retained. The southern boundary wall facing Meadfoot Sea Road will be replaced with a stone wall which is considered to result in an improved visual appearance to the streetscene within the context of the Conservation Area.

Overall, it is not considered that the development will have a significant impact on heritage issues related to the loss of the walled garden and landscaping, loss and alterations to stone walls and the perimeter walls and any historic links to Singleton Manor.

Objectors suggest that the development will interrupt the character and appearance of the streetscene and erode the quality of this part of the Conservation Area and that it will impact on the open vista. The Victorian Society noted as part of the previous application that the development would seriously alter the character of the walled garden, harming its historic legibility in connection to nearby historic villas, and the contribution it makes to the Conservation Area. They recommended that the proposal is reconsidered, and options are explored which would preserve more of the site’s character and legibility as a historic walled garden. The Victorian Society is not a statutory consultee and has not provided a comment for this application however the current proposal has removed the two semi-detached dwellings at the front of the site and has increased the level of landscaping in the front courtyard which is considered to preserve more of the sites character and legibility, open aspect and tranquillity.

Explanatory notes 4.4.24 of Policy SS10 of the Local Plan states that ‘the integration of Torbay’s heritage assets with modern development forms an important part of the maintenance and development of Torbay’s unique character. Urban renewal, regeneration, and preservation of the historic environment can give rise to competing pressures. Careful development management is essential to ensure heritage assets and key features are conserved, while ensuring good quality development which contributes to the community good.’ The proposal as a whole will result in the development of garden space within the Conservation Area which will have a negative impact, and resultant harm to designated heritage assets. The existing open space within the site is considered to positively contribute to the significance of the Conservation Area. Whilst the development of this garden which provides an open aspect is considered to result in harm to Conservation Area, the development as a whole is not considered to be overly dominant, nor visually intrusive and the overall size, scale, massing and visual appearance of the apartment block and associated works within the site and to the boundary are considered to result in an acceptable visual appearance that retains local distinctiveness and sense of place and is in keeping with the character and appearance of the area. The harm to the Conservation Area is therefore considered to be limited to the loss of the open aspect of the undeveloped garden and open qualities of the site as considered within the appeal decision. The proposal is considered to result in sympathetic development which contributes to the local character and distinctiveness of the area whilst retaining the ability to view the trees to the rear, enabling it to be assimilated into the background and has reduced the level of harm identified in the previous application. Overall, the size, scale, appearance and massing are considered to be acceptable for the context of the site and the proposal is considered to accord with Policy SS10.8 of the Local Plan, however the proposal will fail to conserve and enhance the Conservation Area contrary to Policy SS10.3 and SS10.6 of the Local Plan.

With regards to the proposal’s impact on the setting of the nearby listed buildings; ‘Singleton’, ‘Palm Grove’ and ‘Meadfoot Lodge’ and ‘wall and gate piers to the west of Meadfoot Lodge’, the appeal decision noted the following:

15. The significance of these 19th century villas (some of which are now in use as flats) is primarily derived from their special architectural and historic qualities. The special architectural interest of these buildings include their bold scale and sophisticated period detailing, imposing frontages with stuccoed or plastered walls, slate roofs and timber framed sash windows. The historic interest of these designated heritage assets include their previous role and surviving record as spacious and well-designed dwellings, set within generous garden plots. These properties attracted the wealthy leisured classes to Torbay during the 19th century and assisted in the creation of a fashionable resort. Over time, there have been some alterations and extensions to these properties and changes to their settings. Not all of these changes have resulted in a positive or neutral impact upon their heritage interest.

16. As previously noted, the walled garden of the appeal site forms part of the spacious settings to these three listed former villas. With the exception of a glimpsed view of 'Palm Grove' near Ashleigh Court to the north, the site does not assist in understanding or experiencing the special architectural qualities of these designated heritage assets. Nevertheless, in forming part of the record of well preserved 19th century townscape within this part of Torquay, the appeal sites assists in an appreciation and understanding of the special historic qualities of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge'. It makes a positive contribution to their significance and settings.

36. ... It would also intrude into part of the historic settings of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge' and, in so doing, harm their significance (historic interest). In failing to respect and enhance the special qualities of the area the proposal would conflict with the overall thrust of LP policy DE1. This would amount to an inconsistency and conflict with the aims and provisions of LP policy H1.

The current application has removed the semi-detached dwellings from the front of the site thereby reducing the overall visual impact of the proposal. Given the separation distance and intervening features, including that of 'Meadville', from the application site to 'Meadfoot Lodge' and the 'listed walls and gate piers to the west of Meadfoot Lodge' and 'Singleton', there is considered to be a limited appreciable relationship or intervisibility with these listed buildings. The application site and proposed works will be visible from 'Palm Grove' and from the streetscene when considering the setting of 'Palm Grove'. The new stone southern boundary wall is considered to improve the setting of this listed building. The development will however be visible from and will be perceived in the context of 'Palm Grove'. Due to the loss of the undeveloped/green open qualities of the site, the proposal would intrude into part of the historic settings of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge' and 'wall and gate piers to the west of Meadfoot Lodge' and, in so doing, harm their significance resulting in a low level of "less than substantial" harm to the setting of these listed buildings. The proposal is therefore considered to conflict with Policy SS10.1 and HE1 of the Local Plan.

The proposal is considered to have a negative impact to the setting of the nearby non designated heritage assets due to the loss of the undeveloped/green open qualities of the site however the sensitive siting, scale, massing and visual appearance of the development as a whole helps to mitigate this impact.

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving and/or enhancing heritage assets or their setting. The proposal has followed a sequence of refinements and responded to comments relating to heritage by the planning inspectorate and officers. The proposed development has incorporated mitigation measures to reduce the

effects on both townscape character and visual amenity, and to help integrate the development into its surroundings. These include the removal of the two semi-detached dwellings, revised access away from the London Plane street tree, additional landscaping and the continued use of sympathetic materials and architectural treatment. The proportions of each element of the development have been fully considered and are considered to assimilate into the site to ensure the proposed built form is in keeping with the surroundings. Overall, it is considered that the proposal would amount to less than substantial harm to the Conservation Area and listed buildings of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge' and 'wall and gate piers to the west of Meadfoot Lodge' resulting from the development of the garden which provides an open aspect within the Conservation Area and this harm is considered to be at the low level of the scale as it has been reduced by the sensitive siting, scale and design of the scheme as a whole. In addition, the existing rendered wall with concrete capping facing Meadfoot Sea Road would be replaced with a stone wall which will result in an improved visual appearance to the streetscene and consequent enhancement to the Conservation Area.

Paragraph 215 of the NPPF 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'.

Given the loss of garden which provides an open aspect within the Conservation Area, it is considered that the proposal will not sustain and enhance the Lincombes Conservation Area nor the setting of the listed buildings of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge' and 'wall and gate piers to the west of Meadfoot Lodge', contrary to Policy SS10 and HE1 of the Local Plan. Explanatory notes 4.4.30 of Policy SS10 of the Local Plan states that 'Policy SS10 seeks to ensure that heritage assets are safeguarded for the future, and where possible enhanced both for their own merits and as part of regeneration projects. It is also sufficiently flexible to ensure that any harm to the significance of a historic asset can be weighed against the wider benefits of an application, for example social, economic and environmental enhancement'.

The harm to the Conservation Area, setting of the listed buildings and the public benefits of the proposal will be weighed up in the planning balance and conclusion sections of this report as required by Policy SS10.7 of the Local Plan and the NPPF.

4. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to provide a good level of amenity for future residents and will be assessed in terms

of the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution, provision of useable amenity space, and an adequate internal living space.

Internal Living Space

Policy DE3 of the Local Plan requires that new residential units provide adequate internal floor space in order to achieve a pleasant and healthy environment. The Neighbourhood Plan is largely silent on the matter of 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.

Policy DE3 sets out the minimum floor space standards for new apartments. The proposed residential units feature the following approximate floor areas:

Apartments:

1. 4 bed (inc. one single) – 122.5sqm
2. 3 bed (inc. two single) – 86.15sqm
3. 3 bed – 111.28sqm
4. 3 bed (inc. two single) – 86.23sqm
5. 3 bed – 111.37sqm
6. 3 bed (inc. two single) – 71.35sqm
7. 2 bed (inc. one single) – 63.87sqm

All units comply with the minimum floor space requirements apart from apartment unit 6. Unit 6 features a floor area of approximately 71.35sqm, whereas the minimum floor area set out in Policy DE3 states that a flat of this size should be a minimum of 74sqm. Whilst the floor area of this one unit is marginally below the recommended floor area, the unit is considered to have a useable layout for all day to day needs, adequate light and outlook and a private outside terrace. Therefore, whilst the floor area is slightly below standards, the quality of the internal environment is considered to be satisfactory.

All other flats are considered to provide a good quality internal environment for future occupiers with habitable rooms served by adequate light and outlook and layouts set out in a functional manner. Therefore, the proposed residential accommodation is considered to comply with Policy DE3 of the Local Plan in this regard.

The Council's Senior Environmental Health Officer has requested a land contamination risk assessment. This was not requested as part of P/2022/1186 and given the site is a garden of a residential dwelling it is not considered reasonable to require such a report upfront. A planning condition relating to unsuspected contamination is recommended to ensure that if contamination is found, it is appropriately dealt with.

External Amenity Space

Policy THW4 of the Neighbourhood Plan states that all new houses shall have not less than 20 square metres of outside space and must have garden areas with not less than 10 square metres space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. Flats or apartments must have either a balcony of not less than 10 square metres and as appropriate to the size of the home or a communal green area of not less than 10 square metres per unit within the curtilage of the property.

The proposed layout provides a communal outdoor amenity space for the apartment block as well as providing apartments 1, 2, 3, 6 and 7 with private outside space. The provision exceeds the requirements of Policy THW4.

The partially demolished dwelling within the blue line would retain an adequate level of garden space which exceeds the requirements of Policy THW4.

Neighbour Amenity

To the west/south west of the proposed apartment block is the block of flats; 'Meadville'. The block of flats also features a garage block in the south east corner of the plot directly adjacent to the partially demolished dwelling within the wider application site. The proposed apartment block, at its closest point above ground level, would be sited approximately 23.145m from the closest point of the 'Meadville' block of flats. The closest point is the projection at upper ground floor and first floor level of the proposed apartment building, and this is not sited directly opposite the closest section of 'Meadville'. The closest section of the proposed apartment building directly adjacent 'Meadville' has a separation distance of approximately 22.35m. Given the separation distances between the proposed apartment building and 'Meadville', coupled with the orientation and siting of the buildings and the boundary treatments and existing vegetation, the proposed apartment building is not considered to result in a loss of amenity to occupiers of these flats. Given the siting and orientation of the proposed apartment building, in combination with the landscaping and boundary treatment, the proposal is not considered to result in an unacceptable level of overlooking and loss of privacy to private outside areas associated with the flats.

The proposed apartment block will be sited approximately 29.3m at its closest point at lower ground floor level to the dwelling; 'White Lodge'. Given the separation distances between the proposed apartment building and 'White Lodge', coupled with the orientation of the buildings and the boundary treatments and existing vegetation, the proposed apartment building is not considered to result in a loss of amenity to occupiers of this dwelling.

The proposed apartment block would primarily face towards the internal access driveway and landscaping serving 'Osborne House' rather than the private outside space directly next to the dwelling which is likely to be the most utilised. As such the

proposal is not considered to result in an unacceptable level of overlooking and loss of privacy to private outside areas associated with this dwelling.

The properties to the south, including 'Delamere Court' and 'Palm Grove' are considered to be a sufficient distance away given the separation distance and Meadfoot Sea Road being in-between that there would not be a detrimental impact on the amenity of neighbours, in terms of their outlook, privacy, or access to natural light.

Overall, given its siting, scale, and design of the proposal, it is considered that the proposal would not result in any unacceptable harm to the amenities of any nearby neighbour, in terms of their outlook, privacy, overbearing impact or access to natural light. More generally in terms of the finished development the residential use aligns with the residential uses nearby and the additional residential units would not result in undue noise or general disturbance for existing occupiers in the area.

A planning condition is recommended to secure a Construction Method Statement prior to the commencement of the development to ensure there is oversight of the demolition and construction period.

5. Impact on Highway Safety

Policy DE3 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 of the Local Plan sets out promoting improvements to road safety. Policy TA2 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 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 TH9 of the Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in 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.

The proposal includes the blocking up of the existing access and the formation of a new access point from Meadfoot Sea Road and provides a total of 10no. on-site parking spaces.

The Local Highway Authority have been consulted on the application. They have confirmed that no trip generation has been submitted as part of this submission however due to the size of the development proposed, it is considered that the level of anticipated trips generated by the proposed development will not result in a severe

impact on operation or capacity of the local highway network. The Highway Authority have reviewed the Personal Injury Collisions (PIC) which highlights no highway safety concerns near the site.

The applicant has submitted a drawing which illustrates visibility splays of an 'X' distance of 2.4 metres and a 'Y' distance of 43 metres can be achieved in both the primary and secondary directions. This is commensurate with the requirements of a posted speed restriction of 30mph and is considered acceptable.

Vehicular access is proposed off Meadfoot Sea Road through slight alterations to the existing arrangement. The access is to be re-angled and gated. As set out in Torbay Highways Design Guide, any gates must be set back 6 metres from the highway and open inwards to avoid impeding movements on Meadfoot Sea Road. The proposed access and visibility splays plan indicates that the access gates will open inwards and this is recommended to be secured by condition. The gates will be closer than 6 metres to the highway however there are existing gates in this location that are less than 6 metres from the highway and a similar arrangement was proposed as part of the previous application P/2022/1186 and no objection was raised to this by the Highway Authority, nor the planning inspectorate. The siting of the inward opening gates closer than 6 metres to the highway is not considered to compromise safety in this location due to the likely frequency of the use from the flats and the partially demolished dwelling, the presence of acceptable visibility splays, the speed restriction on the road and the fairly straight geometry of the road in this location which allows forward visibility of any potentially waiting vehicle. As such this arrangement is considered to be acceptable.

The swept path analysis demonstrates that large vehicles including fire vehicles can access and egress the site in a forward gear, which is considered to be acceptable.

Appendix F of the Local Plan states that the proposed development should provide one off-street parking space per apartment and two off-street parking spaces per dwelling plus an additional parking space for visitors. Appendix F states that parking spaces should be 4.8 metres by 2.4 metres and the adopted Highways Standing Advice states that where a parking space is adjacent to a solid obstruction such as a retaining wall, the minimum width of a parking space should be 3.2 metres and should not be reduced.

In terms of the undercroft parking, the proposal details four 5.1 metre by 2.5 metre spaces for parking spaces 1, 2, 5 and 6. Parking spaces 3, 4 and 7 have been enlarged to 5.1 metres by 3.3 metres and space 1 measures 5.1 metres by 2.5 metres with an adjacent width of 1.15 metres to accord with and exceed the standing advice guidance in relation to parking next to walls. Space 7 would fulfil the requirements of a disabled space. The undercroft parking also accommodates a 6.3 metre back-to-back distance between opposing parking spaces for manoeuvring. The applicant has provided swept

path drawings for the 7 parking bays underground for vehicles accessing and egressing each parking spot (JG.73.21-JG01 2, JG.73.21-JG02 2, JG.73.21-JG03). The arrangement looks tight, but manoeuvring is possible. 3 spaces are proposed in the courtyard area which includes a visitors space. Whilst concerns relating to the amount of parking provision have been raised in objections, the provision is in accordance with Policy TA3 and Appendix F of the Local Plan and the Highways Engineer has confirmed no objection to the proposal on the basis of parking provision. A planning condition is recommended to ensure the parking provision is provided prior to occupation.

Appendix F also states that 20% of parking spaces for flatted development should have electric vehicle charging points (EVCP's). The applicant has proposed 8no. EVCP charging points (one charge point located outside, 7 located in the undercroft parking area), which is above the recommended provision of Appendix F of the Local Plan and is therefore suitable. A planning condition is recommended to secure the details and installation of the charging points prior to occupation.

In terms of sustainable modes of transport, Appendix F states that at least 1no. covered and secure cycle space should be provided per flat. The proposed plans detail internal cycle storage within the lower ground floor of the apartment block in addition to an area of cycle storage in the undercroft parking area. The Highway Engineer has noted that drawing 818.11B shows 7no. cycle parking spaces on the lower ground floor, with 6no. in a store and 1no. in the parking basement. The Design Access Statement shows that cycle parking is intended to be vertical racking, this is unsuitable for users which may have mobility issues, and these style of racks are unsuitable for modern e-bikes which are heavier with typically wider tyres. Sheffield stands would be the ideal arrangement. Additionally, all cycle parking should be located in the same secure area, it is questioned as to why one cycle parking space is located alone in the car garage area. The arrangement detailed is the same arrangement as that detailed within application P/2022/1186. As previously considered, an alternative provision of cycle storage should be considered to ensure that bike users of all abilities are able to store their cycles. It is considered that there is sufficient space to provide suitable bike storage and therefore a planning condition is recommended to secure the final details of the proposed bike storage to ensure compliance with policy and to ensure its installation prior to first occupation.

The Highway Engineer has raised comments about the need for improved access to and facilities at the bus stop including tactile paving. As the proposal is CIL liable and these are not site deliverability matters, as per the adopted SPD, this cannot be furthered.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should

provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The proposal provides bin storage within a communal bin storage area within the courtyard.

Drawing 818.10D shows the location of refuse storage and collection inside the front entrance to the proposed site. The drawing shows the refuse storage to be in a secure location, and easily accessible to refuse vehicles. It is understood that waste and recycling will be presented for collection on the street and the waste vehicles will therefore not need to access the site. A planning condition requiring the installation of the bin storage prior to first occupation is therefore recommended to ensure adequate facilities are provided and a waste management plan condition is recommended in line with the Highway Engineer's comments to ensure suitable waste and recycling measures are implemented.

Subject to the aforementioned planning conditions, the proposal would have an acceptable impact in terms of highway safety and waste, and would comply with Policies TA1, TA2, TA3 and W1 of the Local Plan and Policy TH9 of the Neighbourhood Plan.

6. Trees

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 protected by a 1973.01 Area TPO and lies within the Lincombes Conservation Area. Both the TPO and Conservation Area provide statutory protection to the trees impacted by the development.

Appeal APP/X1165/W/23/3333967 of P/2022/1186 raised the following concerns with potential impacts on the London Plane street tree:

27. ... the new access would be sited very close to the London Plane tree. This is identified as a 'Category A'19 (high quality) tree by the appellant's tree consultant. As I saw during my visit, the tarmac on the footway around the base of this tree has lifted. There is also major root girdling at its base. Some of the significant roots of this London Plane tree will almost certainly be growing within the appeal site. In addition, part of its canopy is immediately above the proposed entrance and bin storage facilities.

28. The Framework, amongst other things, recognises that trees make an important contribution to the character and quality of urban environments, and

can also help mitigate and adapt to climate change. Although not planning policy, BS 5837:2012 is an important consideration when assessing the likely impact of development upon trees. Amongst other things, it advises that tree surveys should be undertaken prior to any specific proposals for development and structures should be located outside RPAs. Where there is an overriding justification for construction within the RPA technical solutions might be available to prevent damage to trees. New permanent hard surfacing should not exceed 20% of any unsurfaced ground within a root protection area (RPA).

29. The submitted drawings show much of the proposed new access (including entrance radii) and hard surfacing within a sizeable part of the London Plane's RPA. The appellant's tree consultant has described the new access and bin store area as a "significant incursion" into the RPA. The tree protection plan has been annotated to show a 'special protection area' around this tree, with a detailed Arboricultural Method Statement (AMS) to be submitted and agreed with the LPA prior to the commencement of development.

30. As this London Plane is a high quality tree and given the extent of proposed works within its RPA, it is somewhat surprising that an AMS, or careful investigation of the ingress of tree roots into the site, has not already been undertaken in an attempt to demonstrate that there would be no harmful or significant impact upon this tree. Once permission has been granted, it would be very difficult to prevent approved works and utility routes from proceeding if a subsequent AMS was unable to demonstrate that the development would not be harmful. At that stage, what might be considered an "acceptable level" or "moderate to low level" of impact by the appellant could be very different to the LPA's understanding and interpretation of the likely impact.

31. In noting the contents of appellant's tree report, it is unclear to me why a new vehicular access would need to be sited in the position shown on the submitted plans and not further away from this London Plane tree and its RPA. Although the Design and Access Statement explains the design concept, it does not provide an overriding justification for works within an area that is very important to the health and future well-being of this high quality tree. Whatever the actual justification, I am concerned at the extent of works that are proposed within the RPA. This high quality tree may not survive unscathed from the rigours of the construction phase of the development.

The current application has re-sited the proposed access and any hardstanding away from the root protection area of the London Plane street tree and has included landscaping below the root protection area to address the concerns raised.

The Council's Senior Tree Officer has been consulted on the proposal and has noted that Aspect Tree Consultancy (Aspect) have undertaken a BS5837 tree survey. The Officer is in general agreement with their findings and bar some minor changes to tree categorisation (not fundamental to the project), they are satisfied this identifies the

constraints correctly. The proposed layout requires the removal of some low-quality trees from within the site. Options for transplanting several Chusan palms and translocating and replanting within the scheme have been identified to avoid losses and bring maturity into the proposed landscape of the development. The Arboricultural Impact Assessment produced by Aspect has carefully considered the various elements to the delivery of the project identifying tree losses, risks to retained trees and sets out where protection or Arboricultural Method Statements are required. The Tree Officer is in agreement with their AIA and its recommendations. An Arboricultural Method Statement (AMS) - Tree Protection Measures, has been prepared and submitted by Aspect. This covers all the areas where trees may at risk from proposed development activity and specifies control measures and working practices which are required. The Tree Officer is satisfied with the AMS and its recommendations.

The principal tree constraining the site is T7 (London plane) which is a council owned street tree within the highway. Provision for its protection through the demolition of and replacement wall construction phases is addressed via an arboricultural watching brief / AMS in combination with tree specific stem protection. This will ensure this T7 can be successfully retained.

Tree protective fencing has been specified in the Tree Protection Plan ref: 05942 TPP 20.08.25. This sets out the working areas and protected areas and means of protection. The Tree Officer is satisfied with this approach and the level of detail provided. The structural tree planting identified in the soft landscaping plans will deliver a range of evergreen and broadleaf tree species into the frontage of the property, securing a range of tree attributes which will contribute to amenity provision within the Conservation Area.

The Tree Officer recommends securing the Arboricultural Method Statement (Tree Protection Measures) and the installation of the Tree Protection Plan through a planning condition in addition to securing the soft landscaping plans. Conditions to this effect are therefore recommended. With the addition of these recommended conditions the proposal is considered to have an acceptable impact on trees in accordance with Policy C4 of the Local Plan.

7. Impact on Ecology and Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity.

The application is supported by an Ecological Impact Assessment, BNG statement, BNG metric and BNG assessment.

The DCC Ecologist has reviewed the information and has confirmed that a single Common pipistrelle was observed foraging intermittently within the curtilage for the entire bat emergence survey in 2023. Foraging and commuting bats may be negatively impacted by this development. Although it is noted by the DCC Ecologist that the species recorded utilising the site are common, light tolerant species. Replacement bat foraging habitat is to be provided through the revised landscaping scheme which is suitable for the bat species recorded utilising the site and a planning condition requiring external lighting details is recommended.

The Ecological Impact Assessment provides a number of recommendations and includes recommended enhancement measures of 4 in-built bat boxes and 4 in-built bird boxes. The contents of the ecology report and enhancement measures is recommended to be secured by condition.

A preliminary roost assessment of buildings was undertaken in April 2021 with an external inspection of all buildings on site. The PEA identified two buildings onsite; an existing two storey property and a stone built outbuilding which has a pitched slate roof covering in part as well as a flat roof. Both buildings were deemed by the consultant ecologist to offer 'low' bat roost potential due to the presence of gaps and potential roosting features. A single bat emergence survey was recommended for each building to ascertain bat presence/likely absence and this survey was undertaken on 10th May 2021. A follow up bat survey was undertaken in May 2023 to update the 2021 survey results. A following 2025 survey was then undertaken by Lakeway Ecology to confirm the results of the 2023 survey. No bats were observed emerging from either building during any of the emergence surveys.

The 2025 walkover showed the site (fruit trees and building) are suitable for nesting birds. Vegetation removal and building demolition during winter, outside the bird nesting season should take place and this is recommended to be secured by condition.

In England Biodiversity Net Gain (BNG) has been mandatory for non-major applications from 2 April 2024 under the Town and Country Planning Act 1990 (as inserted by the Environment Act 2021). This means that, subject to certain exemptions, development must deliver a 10% gain in biodiversity. In terms of this application the site is BNG liable and therefore not exempt. The DCC Ecologist has confirmed that the BNG metric in excel format has been submitted. It indicates that a 10% net gain is not achievable onsite and the procurement of offsite units will be required. The previous applications on this site (P/2022/1186) stated the presence of an orchard within the redline boundary. This habitat was not deemed to be priority habitat traditional orchard, but the previous ecology report did note the presence of 6 fruit trees aged between 20-40 years old. Paragraph 6.2 of the EclA states that 'The

Site has individual fruit trees indicative of a garden but does not qualify as a traditional orchard' – this is agreed with by the LPA. The domestic trees onsite were not included in the calculations as they are deemed small trees within a garden. This is in line with BNG guidance by DEFRA updated 3rd July 2025 which provides more clarity around domestic trees. The baseline has been calculated in line with BNG guidance. The statutory requirement for BNG is secured via the statutory pre-commencement BNG condition. An informative must be included on the decision notice.

With the addition of the recommended conditions and informative the proposal is considered to accord with Policy NC1 and SS8 of the Local Plan and Policy TE5 of the Neighbourhood Plan.

8. Impact on 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 site is located within the Critical Drainage Area, and the application is accompanied by a Flood Risk Assessment. The Council's Drainage Engineer has been consulted on the scheme. The Officer originally noted that further information was required as the detailed drainage scheme included some minor issues with the design and layout.

The drainage standing advice guides that for minor developments outside of flood zone 2/3 and areas susceptible to surface water flooding, a planning condition can be added to secure drainage. The Planning Officer subsequently queried with the Drainage Engineer if a condition could be added to address their comments and they confirmed this was an acceptable approach.

A planning condition is therefore recommended to secure the surface water drainage and with the addition of this condition the proposal is considered to accord with Policy ER1 of the Local Plan.

9. Designing Out Crime

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy TH2 of the Neighbourhood Plan states that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

The proposal does not include a scheme of designing-out crime measures. Therefore, it is considered that a planning condition should be employed to secure a scheme of

such prior to occupation. 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 Neighbourhood Plan.

10. Low Carbon Development

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks to minimise carbon emissions and the use of natural resources. Policy ES1 of the Local Plan seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The applicant has submitted a completed Torbay Sustainability Checklist. A number of sustainability measures are outlined within this document including that the development will prioritise a 'fabric first', passive approach. The reuse of local stone from the site has been adopted within the design, reducing off site transport and carbon emissions. The passive solar design of spaces will allow sunlight into living rooms. Bedrooms are prioritised at the rear (north) side to create cooler, more temperature stable rooms. This also means that daylighting opportunities are focused more to rooms requiring high levels of task lighting. All fabric will meet or exceed modern elemental U value and Psi value requirements. Private gardens face south east and south west allowing a variety of potential shading options in peak summer time.

The proposals exceeds the Appendix F requirements for EVCP, with 1no. charging point provided per unit which will encourage low carbon electric car usage. Also, the new development will promote healthy living by securing suitable storage areas for bikes to give the future occupants a chance for active and healthy living.

A planning condition is recommended to ensure that the development adheres to the measures stated within the submitted Torbay Sustainability Checklist. With the addition of this condition the proposal is considered to accord with Policies SS14 and ES1 of the Local Plan.

11. Other material considerations including housing supply and the NPPF

Consideration of Compliance with Policy H1 of the Local Plan:

Policy H1 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 this Plan. Policy H1 continues, proposals for new homes on unallocated sites will be assessed on the following criteria, proportionate to the scale of the proposal:

1. The need to provide a range of homes, including family homes, affordable homes, and opportunities for self-build homes, to meet the full objectively assessed needs as far as is consistent with other policies in the NPPF, Local Plan and neighbourhood plans;

Comment: The proposal seeks permission for a range of apartments (a mixture of two (1x), three (5x) and four (1x) bedroom apartments). It is considered that this criteria is met.

2. The maintenance of a rolling 5 year supply of deliverable sites;

Comment: The Council cannot demonstrate the maintenance of a 5 year supply of deliverable sites.

3. The opportunity to create mixed, balanced and prosperous communities, including employment provision, with good access to social and environmental infrastructure;

Comment: The development will provide a range of unit sizes within an accessible location (1km from the centre of Torquay) with pedestrian / cycling and public transport infrastructure within the vicinity of the site. It is considered that this criteria is met.

4. The creation of high quality living environments, including the protection of the amenity, recreation opportunities and access to facilities of all residents;

Comment: The development will provide a high quality living environment close to the centre of Torquay and Meadfoot Beach, whilst protecting amenity. It is considered that this criteria is met.

5. The capacity of physical, social and environmental infrastructure, including highways and sewerage, to accommodate development;

Comment: The development is acceptable in terms of any impact on infrastructure (see comments on highways and drainage above) given its small scale and its proximity to the services in Torquay town centre. It is considered that this criteria is met.

6. The objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas;

Comment: Development in the curtilage of a dwelling is defined in the NPPF as being a greenfield site. However, the site is within the built up area. Whilst the proposal does not utilise brownfield land it provides homes within the built up area, thereby helping to create prosperous and liveable urban areas. The proposal is not considered to conflict with this criteria.

7. The landscape and biodiversity impacts of the proposal and the objective to achieve a net gain in biodiversity;

Comment: The proposal is considered to have an acceptable impact on trees and a suitable landscaping scheme has been put forward which is considered to integrate the development into the surrounding area. The DCC Ecologist has confirmed that the proposal will provide appropriate ecological mitigation and a 10% increase in BNG will be secured by the statutory condition.

8. The objective to reduce the need to travel by car, whilst making appropriate arrangements for vehicle ownership;

Comment: Parking is policy compliant and EVCP's in excess of policy requirements are proposed. The site is in an accessible location (1km from the centre of Torquay) with pedestrian / cycling and public transport infrastructure within the vicinity. It is considered that this criteria is met.

9. Consistency with other Policies in the Local Plan and neighbourhood plans.

Comment The proposals are consistent with the Local Plan and Neighbourhood Plan Policies except in relation to the loss of garden space which provides an open aspect within the Conservation Area, which will not sustain and enhance Lincombes Conservation Area nor the setting of the nearby listed buildings, contrary to Policy SS10 and HE1 of the Local Plan. Policy TS4 of the Neighbourhood Plan states that development of greenfield sites can have an adverse impact through the loss of green space, so will be supported where this is an allocated site within the Plan or the loss is required to meet the strategic economic policies within the Local Plan. The site is not allocated and will have an impact on the open aspect of the site through the loss of green space contrary to this policy.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the flats are occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

The site is not located in a core tourism investment area and impacts from the development on tourism are considered to be negligible.

There are no adverse economic impacts that would arise from this development.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principal social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing, the residential units to be provided must carry weight in this balance. The weight attached to the shortfall is a matter for the decision maker, acting reasonably. Because the application is for only 7 flats, but there is a significant shortfall, it is recommended that moderate weight be given to the boost in housing supply.

On balance, the social impacts of the development weigh in favour of the development.

The Environmental Role

With respect to the environmental role of sustainable development, for reasons set out in this report there is considered to be less than substantial harm to the identified heritage asset of the Lincombes Conservation Area and the setting of the listed buildings of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge and wall and gate piers to the west of Meadfoot Lodge'. This harm is considered to be at the minor end of the scale.

Other elements that are considered to be especially relevant to the proposed development are impacts on trees, biodiversity and drainage. A landscaping scheme has been submitted which is acceptable and the proposal also provides low carbon and energy efficiency measures. These matters have been considered in detail above and weigh in favour of the proposal.

The proposed development is located in a sustainable location within close proximity to local amenities and public transportation links. This weighs in favour of the proposal.

It is concluded that the environmental impacts of the development, due to the adverse impact on the heritage assets weigh against the development, however the positive

elements of the proposal in terms of a sustainable location, low carbon and energy efficiency measures, landscaping and drainage weigh in favour.

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

S106:

None.

Affordable housing:

Paragraph 65 of the NPPF states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The Planning Contributions and Affordable Housing SPD has agreed to apply the NPPF threshold as a material consideration, despite the starting point being Policy H2 of the Local Plan. The current proposal is not major in nature and therefore it does not trigger the requirement for affordable housing contributions.

Comments have been raised that the site has been artificially subdivided to avoid affordable housing contributions. In this instance there was an existing dwelling within the blue line area on the site location plan. Unauthorised partial demolition has taken place. An enforcement notice currently requires the re-building of this dwelling and there is a separate planning application authorising the partial demolition and construction of a replacement dwelling. Given there was an existing dwelling in this location and this will be re-built, this is not considered to constitute artificial subdivision with the aim of avoiding planning contributions and therefore it is not considered reasonable to further any requirement for affordable housing contributions.

CIL:

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm.

The estimated CIL liability is £79,364.24. This figure is indexed linked and the final figure will be calculated on the day of the decision.

An informative can be imposed, should consent be granted, to explain the applicant's/developer's/ landowner's obligations under the CIL Regulations.

CIL is a "Local Finance Consideration" relevant to determining applications. However, in the officer's assessment, it is not a determining factor (either way) in the planning balance assessment below.

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.

HRA:

Not applicable.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal and development plan policies.

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.

Development Plans often contain policies that pull in different directions and it is sometimes difficult to come to a view whether a proposal is in accordance with the development plan "taken as a whole". Whilst the proposal is supported by policies in the Local Plan that seek to boost housing supply, there are conflicts with the historic environment (Policy SS10 and HE1 of the Local Plan) and Policy TS4 of the Neighbourhood Plan. Whilst the harm to the character and appearance of the Conservation Area and settings of the listed buildings has been assessed as being "less than substantial" it is sufficient to render the proposal not in accordance with the Development Plan.

As noted above, the Council has less than 5 years housing land supply and on this basis the development plan must be "deemed" to be out of date. At 1.65 years supply, the shortfall is serious and must be given significant weight in the planning balance. However, the proposal is for only 7 flats, which reduces the weight that should be given to the proposal, and this weight is considered to be moderate. Out of date policies can

still carry weight in the planning balance, but in practice attention shifts to other material considerations, especially the Presumption in Favour of Sustainable Development which is set out in paragraph 11(d) of the NPPF.

Paragraph 11 of the NPPF states:

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

The first issue is whether the application of NPPF policies related to heritage assets provides a strong reason for refusing the development.

Paragraph 210 of the NPPF states:

a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 212 of the NPPF states:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

Paragraph 215 of the NPPF 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.

When taking account of the Government's objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with the acknowledged important contribution that small sites can make to meeting the housing requirement of an area and the Council's housing land supply situation, the cumulative public benefits of the proposed scheme attract moderate weight.

Great weight should be given to the conservation of designated heritage assets. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Lincombes Conservation Area and the setting of the listed buildings of 'Singleton' (Grade II listed), 'Palm Grove' (Grade II listed) and 'Meadfoot Lodge' (Grade II listed) and 'wall and gate piers to the west of Meadfoot Lodge' (Grade II listed). However, in this case the harm identified to the designated heritage assets from the proposal is assessed as the minor end of less than substantial harm.

The public benefits in the form of the economic and social benefits include the economic growth and associated economic benefits to the construction industry from the proposed development, the proposal would also result in additional disposable income from the occupants. The proposal would provide housing where there is a lack of 5 year housing land supply and this would be located within a sustainable location. Other matters that weigh in favour include a landscaping and drainage scheme and the proposal promotes low carbon and energy efficiency measures in the building construction and promotion of EVCP and cycle storage.

The development of the garden which provides an open aspect within the Conservation Area which will erode the undeveloped / green open qualities of the site and this will result in less than substantial harm to the Conservation Area and the historic settings of the listed buildings of 'Singleton', 'Palm Grove' and 'Meadfoot Lodge' and 'wall and gate piers to the west of Meadfoot Lodge' however the development put forward is considered to be sensitively designed in terms of layout, siting, massing and appearance which limits the harm caused.

Paragraph 215 of the NPPF indicates that proposals that result in less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of the proposal, including where appropriate securing its optimal viable use. The level of harm identified is considered to be less than the threshold that would

constitute a strong reason for refusal under paragraph 11(d)(i) of the Framework and the accompanying footnote 7.

Attention then turns to Paragraph 11(d)(ii) which directs decision makers to grant permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the framework taken as a whole. This can include a consideration of Development Plan policies.

The appeal decision of P/2022/1186 (APP/X1165/W/23/3333967) dismissed the appeal but noted in terms of the heritage balance that:

42. I find that when the harm to the significance of the above noted heritage assets is weighed with the public benefits this issue is more evenly balanced than was evidently found by the LPA when it determined the application. However, the concern that I have identified above in respect of the likely impact upon a high quality tree within the LCA, tips the heritage balance against an approval. I therefore conclude on the first main issue that the harm to the significance of heritage assets would not be outweighed by the public benefits of the proposal. The proposal would conflict with the provisions of LP policy SS10. This amounts to a further inconsistency with LP policy H1.

The current proposal has re-sited the proposed access and any hardstanding away from the root protection area of the London Plane street tree and the Council Senior Tree Officer is satisfied that with the arboricultural information submitted and the recommended conditions, this tree and other trees will be adequately protected. It is considered that the current submission has addressed this concern which was raised in the appeal decision and was considered at the time to tip the heritage balance against an approval.

On balance, the public benefits of the scheme as a whole, when weighed against the level of harm caused, are considered to justify the proposal and the proposal is considered to represent sustainable development when considering the Local Plan, Neighbourhood Plan and NPPF taken as a whole as the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits.

Other than the harm to the Conservation Area, setting of the listed buildings and conflict with Policy TS4 of the Neighbourhood Plan, there are no other adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits of the development.

In addition, the public benefits are a material consideration which weigh in favour of granting planning permission notwithstanding conflicts with some aspects of the Development Plan.

Draft Local Plan

The draft Local Plan consultation recently completed its Regulation 18 stage consultation and therefore held very minimal weight. The policies in the draft plan are not considered to conflict with the current proposal beyond the concerns already raised relating to the impact on heritage assets. The Local Plan was subject to objection from MHCLG on the basis that it needs to do everything possible to demonstrate that a “no stone left unturned” approach has been taken to identifying housing land. However, since this report has noted above that the Presumption in Favour of Sustainable Development is relevant to determining the current application, this consideration already has already been taken into account.

Conclusions and Reasons for Decision

The Council cannot currently demonstrate a 5-year housing land supply, as sought by Government, and the proposal will help with the delivery of housing. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development. Local Plan policies SS3, SS13 and H1 also place importance on maintaining five year housing supply. The provision of housing is a benefit, which officers have given moderate weight within the overall planning balance. In the absence of 5-year housing land supply the NPPF advises that the policies most important for determining the application should be deemed to be out of date. The proposal causes less than substantial harm to the character and appearance of the Lincombes Conservation Area and the historic settings of the listed buildings of ‘Singleton’, ‘Palm Grove’ and ‘Meadfoot Lodge’ and ‘wall and gate piers to the west of Meadfoot Lodge’. However, this level of harm has been assessed by officers to constitute a lower level of harm than would constitute a “strong reason for refusal”. In reaching this judgement regard has been had to the LPA’s legal duty of paying special attention to the desirability of preserving or enhancing the character or appearance of the area and the setting of listed buildings.

Paragraph 11 (d)(ii) of the NPPF states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination'. It should be noted that the absence of a 5 year housing supply, and the extent of the shortfall, principally sets a higher benchmark to resist development.

When weighing the public benefits of the scheme against the less than substantial harm identified to the Lincombes Conservation Area and the historic settings of the listed buildings of ‘Singleton’, ‘Palm Grove’ and ‘Meadfoot Lodge and ‘wall and gate

piers to the west of Meadfoot Lodge' and the conflict with Policy TS4, it is concluded that the benefits outweigh the minor level of less than substantial harm caused and policy conflict. As such it is recommended that planning permission be granted.

Officer Recommendation

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Place Strategy;

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.

If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Place Strategy and in consultation with the chairperson.

Conditions

1. 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 other airborne pollutants) 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 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- j) Procedures for maintaining good neighbour relations including complaint management.

k) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.

Reason: To safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

These details are required pre-commencement as oversight of the development period is required from the outset.

2. Tree protection measures

No development (including demolition/groundworks) shall commence until tree protection measures have been undertaken and retained in accordance with the hereby approved '05942 TPP (tree protection)' and '05942 AMS (tree protect measure)' which includes the tree protection plan and arboricultural method statement for the protection of trees both prior to and during construction works.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policies NC1 and C4 of the Adopted Torbay Local Plan 2012-2030 and Policy TE5 of the Adopted Torquay Neighbourhood Plan 2012-2030.

This is a pre-commencement condition because the works comprising the development have the potential to harm retained trees and therefore these details need to be agreed before work commences.

3. Boundary treatments

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

Reason: To ensure a satisfactory completion of development in the interests of visual and residential amenity and to protect the privacy of future and neighbouring occupants in accordance with Policies DE1, SS10 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

4. Stone wall details

Prior to the repair or installation of new stone walling materials, sample panel(s) of all new and/or reused facing stonework, including in the construction of walls, shall be provided on site showing the proposed -

Stone types, sizes, colour, texture face-bond and pointing mortar mix, joint thickness and finish profile and methods of repair. The stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used.

Approval of the materials and methods shall be confirmed in writing by the Local Planning Authority prior to installation of the materials and development shall then take place in accordance with the approved details. The approved sample panel(s) shall be retained on site until the work is completed.

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

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

5. Materials

Prior to their installation, technical details and/or samples of the proposed exterior materials including wall finishes, roofing materials, eaves, fascias and rainwater goods shall be 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 Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

6. Window and door details

Notwithstanding the approved plans and details, prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken 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
- Frame and door materials

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

Reason: In the interest of visual amenity and in accordance with Policy DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

7. Parking provision

The apartments hereby approved shall not be occupied or brought into use until the courtyard parking areas and undercroft parking area at lower ground floor level as detailed on approved plans '818.10D' and '818.11B' have been provided in full and are available for use. The parking areas shall thereafter be permanently retained for the use of parking for the associated host dwelling/apartments 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.

8. EVCP

Prior to the occupation of the apartments hereby approved, a scheme for the insertion of eight electrical vehicle charging points to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location and specification.

The approved electrical vehicle charging points shall be installed prior to the first occupation of new apartments hereby approved and shall thereafter be available for use, maintained and retained for the lifetime of the development for the associated host dwelling/apartments.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

9. Cycle storage

Prior to the first occupation of the apartments hereby permitted, and notwithstanding the submitted details, provision shall be made for the storage of bicycles to ensure that all bicycle users can store their bicycles according to details which shall previously have been submitted to and approved 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 bicycle storage facilities are provided to serve the development in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

10. Waste Management Plan

Prior to the first occupation or first use of the development hereby approved a Waste Management Plan (WMP) for the flats, setting out recycling and waste collections methods which follow the waste hierarchy to ensure locally established recycling targets at the that time are met, together with measures to review and respond to evolving targets, shall be submitted to and approved in writing by the Local Planning Authority. The approved WMP shall be implemented prior to the first occupation of the development hereby approved and shall be maintained at all times thereafter as a working document and strategy for the lifetime of the development.

Reason: To ensure a suitable waste collection that accords with Policies W1 and W2 of the Adopted Torbay Local Plan 2012-2030.

11. 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 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 crime prevention in accordance with Policy DE1 and SS11 of the Adopted Torbay Local Plan 2012-2030 and Policy TH2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

12. External lighting

Prior to the installation of any external lighting within the site, full details including their design, siting and levels/type of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be installed in full accordance with the approved details. No further external lighting shall be provided within the site.

Reason: To safeguard protected and/or priority species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

13. Landscaping

All proposed planting as detailed within plan references 'Drawing-818-M2 D (soft landscaping)' and 'Drawing-818-M1 D (landscape schedule)' (the "landscaping scheme") shall be planted in the next planting season following the commencement of the development and completed in full prior to the occupation of the development. The landscaping scheme shall thereafter be maintained for a period of 5 years from completion of the installation of the landscaping scheme. In the event of failure of any trees/plants, planted in accordance with the approved scheme, to become established and to prosper for a period of five years from the date of the completion of the landscaping scheme, such trees/plants shall be replaced in the next planting season.

The hard landscaping shall be installed in accordance with approved plan 'Drawing-818-M3 D (hard landscaping)', prior to the first occupation of the development and shall be retained as such thereafter.

The planting and hard landscaping shall be maintained in accordance with the approved details.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity, in accordance with Policies SS8, DE1, SS10 and C4 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

14. Ecology Report

The recommendations and mitigation given in the 'Ecological Impact Assessment 25-1079-EclA-CT' dated 19th June 2025 shall be followed, including precautions to prevent threat of harm during construction works and timings of works.

4no. in-built bat boxes and 4no. in-built bird boxes shall be installed prior to the first occupation of the development hereby approved and shall be retained as such thereafter.

Reason: To safeguard protected and/or priority species, and to ensure biodiversity net gain in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

15. Bird nesting season

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

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

16. Bin storage

Prior to the first occupation of the apartments hereby permitted, the bin storage area detailed on approved plan '818.10D' shall be installed and made available for use. 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 Policies W1 and DE1 of the Adopted Torbay Local Plan 2012-2030.

17. Surface water drainage

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 50% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be occupied or brought into use until the agreed drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development.

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

18. Sustainability

The construction of the development hereby approved shall be carried out in accordance with the details contained in the approved 'Torbay Sustainability Checklist - P20250612-7 (sustainability)'. All measures contained within the approved document to limit carbon emissions shall be implemented prior to first occupation of the development and shall be retained for the lifetime of the development.

Reason: In interests of low carbon development and in accordance with Policy SS14 and ES1 of the Adopted Torbay Local Plan 2012-2030.

19. Unsuspected Contamination

In the event that contamination which was not previously identified is found at any time when carrying out the approved development, it shall be reported in writing immediately to the Local Planning Authority and further development works shall cease unless alternative arrangements have been first agreed in writing with the Local Planning Authority. An investigation and risk assessment shall be undertaken and where remediation is necessary, a remediation scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall thereafter be implemented as approved. The requirements of this condition shall also apply if other circumstances arise during the development, which require a reconsideration of the approved remediation scheme.

Reason: In the interests of public health and the natural environment in accordance with Policy ER3 of the Adopted Torbay Local Plan 2012-2030.

20. Access Gates

Notwithstanding the provisions of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015, as amended (or any order revoking and re-enacting that Order with or without modification), the

highway access gates shall be installed as inward opening gates in accordance with approved plans ' 818.10 D (site & roof plan)' and '818.21 (gate detail)' and shall be retained as such thereafter.

Reason: In the interest of highway safety in accordance with Policy TA2 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

1. 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.

2. 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 the development of land in England is deemed to have been granted subject to the condition "(the 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 require the approval of a biodiversity gain plan before development can begin because none of the statutory exemptions or transitional arrangements are considered to apply.

3. Community Infrastructure Levy (CIL)

This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough.

CIL next steps required under the CIL Regulations 2010 (as amended):

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested

party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development.

The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice.

The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure.

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

Relevant Policies

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

ER3 – Contamination

ES1 – Energy

H1 – Applications for New Homes

H2 – Affordable Housing

NC1 – Biodiversity and Geodiversity

SS3 – Presumption In Favour Of Sustainable Development

SS10 – Conservation and the Historic Environment
SS11 – Sustainable Communities
SS14 – Low Carbon Development and Adaptation to Climate Change
TA1 – Transport and Accessibility
TA2 – Development Access
TA3 – Parking Requirements
W1 – Waste Hierarchy
HE1 – Listed Buildings
TE5 – Protected Species Habitats and Biodiversity
TH2 – Designing Out Crime
TH8 – Established Architecture
TH9 – Parking Facilities
TS4 - Support for Brownfield and Greenfield development
THW4 – Outside Space Provision