

Application Number

P/2018/0962

Site Address213 St Marychurch Road
Torquay
TQ1 3JT**Case Officer**

Mr Alexis Moran

Ward

St Marychurch

Description

Demolition of existing building to form 17 apartments & parking. (Revised plans received 6/3/19)

Update Report

At the 8th April Planning Committee meeting, this application for the demolition of the existing building and the formation of a new building of seventeen apartments and associated development, was recommended by officers for approval. Members of the Planning Committee resolved to defer the application in order for the Case Officer to negotiate minor alterations to the scheme relating to the design of the roof-scape, the siting and materials used in the construction of the bin store area, and to secure additional landscaping along the eastern and western boundaries of the site.

Consultations

Historic England – No response received at the time of writing this report, any further comments received will be reported to Members at the Planning Committee

Interim Conservation Officer - *The officer recommendation for the original scheme was one of approval, although Members deferred to take the opportunity to explore further improvements to the design of the proposal. The amended plans represent a slight improvement in that the inclusion of two stacks add a little more interest to the roofscape and as such the overall scheme is as a consequence slightly better and remains acceptable. In terms of the context of the Conservation Area the articulation of the roofscape including chimney stacks is a particularly important characteristic.*

The way that the elevational drawings are presented probably don't do the revisions justice as the inclusion of the two stacks should appear more attractive in the street scene view. The details of the stacks are not particularly well defined on the submitted plans and would benefit from a corbel feature to help add a little more interest and this might also help to have a better visual link to the architectural style of the main building. The corbel feature is characteristic of the locality. I appreciate it might seem like a small detail but these can contribute

to the visual quality of the resultant development.

As a result of these comments revised plans which show a better representation of the chimneys on the elevations have been submitted.

Key Considerations

At the planning committee meeting of 8th April, it was determined to defer the application so that amendments could be made, these related to the design of the roofscape; the siting and materials to be used in the construction of the bin store area; and to secure additional landscaping along the eastern and western boundaries of the site.

Roofscape design

The Council's Interim Conservation Officer has advised that the amended plans represent an improvement to the previous roofscape and that the overall scheme remains acceptable. It is noted that these comments state that a corbel feature would help to improve the visual link to the architectural style of the main building and that the corbel feature is characteristic of the locality.

The relevant Torquay Neighbourhood Plan policy relating to this aspect of the application is Policy TH8 (Established Architecture). This policy requires development to be of good quality design and reflect the identity of its surroundings. Policy DE1 of the Torbay Local Plan also requires development to be of a good quality design and relate to the surrounding built environment. Notwithstanding the lack of corbel features on the proposed chimneys, it is considered that the roofscape of the development is of a good quality design and complies with Policy TH8 of the Torquay Neighbourhood Plan and Policy DE1 of the Torbay Local Plan 2012-2030.

Bin store

The applicant has amended the siting of the bin store area with the construction now being of stone rather than timber fencing, and a new access is provided in the boundary wall with St. Marychurch Road which includes a gate and a characteristic brick arch. The addition of the gate would reduce the time it would take for refuse lorries to load the bins thus reducing issues with traffic flow. It is also noted that the previous use of the building as a care home would have encountered similar problems and the proposed method of waste collection is considered to be an improvement compared to the existing situation.

Policy TH10 of the Torquay Neighbourhood Plan and Policy SS10 of the Torbay Local Plan, require development to conserve the character of the conservation area. The additional opening in the stone wall with a gated access to the bin store area is deemed to be acceptable in terms of the character and appearance of the conservation area and wider streetscene and would comply with Policy TH10 of the Torquay Neighbourhood Plan and Policies DE1 & SS10 of the Local Plan 2012-2030.

Landscaping

Additional planting has been proposed along the eastern and western site boundaries where this would appear to have limited conflict with existing planting, giving it optimal chance of establishing itself. Full details of this will be submitted as part of a landscaping scheme condition. This will require any of the planting which dies, is removed, becomes seriously damaged or diseased to be replaced in the next available planting season with others of a similar size and same species, for the first 5 years from the completion of the development. The additional planting is considered to comply with Policy C4 of the Local Plan.

Conclusion

Bearing the above points in mind the revised plans are considered to overcome the issues previously raised in the committee meeting of 08.04.2019 and it is deemed that, subject to the completion of a legal agreement to review the financial liability of the development, the proposal is appropriate for conditional approval, having regard to all national, local and neighbourhood planning policies and all other relevant material considerations.

Updated Recommendation

Conditional approval with final drafting of conditions delegated to the Assistant Director of Planning and Transport and the completion of legal agreement to allow for a review of the financial viability of the development.

Previous Officer report to Planning Committee on 08.04.2019

Executive Summary/Key Outcomes

The existing building is 3 stories in height with flat roofs, a number of unsympathetic extensions over the years have resulted in very little of the original villa still being visible. It has most recently been used as a care home but shut down in 2017 and is currently vacant. The site is within the St. Marychurch Conservation Area, it is not Listed nor is it a key building.

The application proposes the demolition of the existing building and to redevelop the site to provide seventeen apartments within a four storey building. The proposal includes the provision of seventeen car parking spaces.

The proposed building would have an appearance derived from the principle of a modern take on a Victorian villa one which is not uncommon in Torbay and within the immediate vicinity. The building has rendered elevations with vertical fenestration to pick up the architectural language of the building which would have originally occupied the site.

The building has been reduced in scale during the application process with the fourth storey being made more recessive and 15% smaller, the overall

development is 10% smaller than when first submitted. The overall scale and height of the proposed development is considered to be acceptable and is deemed to retain the character of the Conservation Area.

Neighbour amenity to the north, east and south is adequately protected given the distances between the site and its residential neighbours. The impact on the privacy and amenity of the neighbours to the west can be mitigated by a condition requesting details of a scheme of obscure glazing and by reducing the useable space of the fourth floor terrace.

The demolition of the existing building is acceptable as the building is not listed and has a negative impact on the character of the Conservation Area.

Recommendation

Conditional approval with the final drafting of conditions delegated to the Assistant Director of Planning and Transport and a s.106 agreement to allow for a review of the financial viability of the development.

Site Details

The site, 213 St. Marychurch Road, Torquay, has most recently been used as a care home but shut down in 2017 and is currently vacant. The original property was one of the villas which made up part of the mid 19th century development. The site is within the St. Marychurch Conservation Area, it is not Listed nor is it a key building. The existing building is 3 stories in height with flat roofs, a number of unsympathetic extensions over the years have resulted in very little of the original villa still being visible.

The site is approximately 0.2ha in area and is screened to its east, south and west elevations by trees.

There is a single vehicular access off St Marychurch Road with parking for four cars. The site lies just outside of the St. Marychurch district centre and within close proximity to a bus stop.

Detailed Proposals

The proposal is to demolish the existing building on the site and replace it with a modern, four storey building to provide seventeen apartments. The proposal includes seventeen parking spaces, two of which have electrical charging points and seventeen cycle spaces.

The design of the building is a modern interpretation of the villa typology which is found within the conservation area. The elevations are to be largely white render on the ground, first and second floors with black render on the third floor which is a recessed level. The elevations are vertically proportioned and heavily glazed. Natural stone walling is proposed adjacent to the new building and the boundary with Broadhurst Court.

There are four floors of accommodation with four units provided on the ground floor, five units on the first floor, five on the second floor and three units on the recessed third floor.

The units provide a range of accommodation with the smallest providing a 55m² one bed apartment and the largest a two bed apartment of 83.7m².

The access is off of St. Marychurch Road with thirteen parking spaces to the north of the proposed building and four in an undercroft parking area at ground floor level on the principal elevation.

A communal garden is proposed to the rear of the building which is approximately 680m², apartment 1 has a private garden to the west of the proposed building which is 36m². Apartment 2 also has a private garden to the west of the proposed building which is approximately 60m². Apartments 3 and 4 both have small terrace areas leading out to the communal garden.

At first floor level four of the apartments have terrace/balcony areas, two to the north elevation and two to the south elevation, this is mirrored at second floor level. At third floor area there is a larger terrace area which covers the area recessed at this level, the largest section of which is to the west elevation.

Waste storage is also provided for within a small bin store area to the south of the parking area and east of the new building.

Policy Context

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

Development Plan

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

Material Considerations

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

Summary Of Consultation Responses

Historic England

The proposed new building will be a bulky, and incongruous form when seen in the context of the elegance of the Victorian villas which populate so much of this part of Torquay. Whilst many have been insensitively altered in recent decades, the predominant architectural idiom is clear and defines the character of the area - graceful, stuccoed buildings with pitched slate roofs set at an oblique angle in spacious plots - the proposed replacement building would be an inharmonious addition to the street scape, neither referencing the surrounding buildings in scale or form nor as a piece of complementary and dignified design in its own right. As a result, Historic England does not accept that this revised proposal will either conserve or enhance the character of the Conservation Area and we maintain that a more contextual response should be sought.

While Historic England does not wish to question the principle of some development at this location, we believe a more sensitive architectural solution is required in order to preserve the character and appearance of the surrounding conservation area. We therefore encourage your authority to seek significant design modifications.

Conservation and Design Team

An 'on balance' consideration should be given as the existing building could be regarded as a negative contributor to the conservation area. Because of the lack of overall quality of the existing building and some of the positives of the proposed design elements of the new building a case could be made on balance to suggest that the scheme represents less than substantial harm to the designated heritage asset in which case para 196 of NPPF should be applied.

Drainage Engineer

Providing the surface water drainage is constructed in accordance with the submitted documents there is no objection on drainage grounds to planning permission being granted.

South West Water

No objection

Highways / Strategic Transport

From the layout Drawing they have shown they are widening the entrance, and as there is a white "T" bar road marking across the access which allows a vehicle to exit carefully into the road, this gives them the required visibility if there were no parked vehicles each side of the access.

A previous planning application at almost the same location had taken speed readings and the outcome was the average speed in both directions was 20 mph, therefore I don't think there is a requirement for any loss of on street parking.

The parking space dimensions are correct. The Local Plan states one parking space per flat, on each application, not based on the number of rooms or adjacent developments in the area. Because of one hour on street parking and being close to a local centre, visitor parking is not essential on this site. There are two electric charging bays, but no disabled bays.

Arboriculture Officer

There is an Area TPO 1973.22 and Conservation Area covering the entire site. The submitted tree survey report shows the intended removal of 13 trees of mixed species (including ash, cherry, sycamore) to make way for the new building and to remove tall trees along the boundary of Manor Road due to them being generally of poor quality. These trees have been assessed as being of moderate and low quality, categorised according to BSS5837:2012 Trees in relation to design, demolition and construction. There are also tall neighbouring trees close to the proposals.

It is proposed to plant 5 new trees along the boundary of Manor Road (tall growing species including Turkish hazel, lime and Dawn Redwood). No further landscaping details have been submitted.

Police Designing out Crime Officer

The Police have no particular concerns with regard to the design of the proposed development

Affordable Housing

An Independent Viability Assessment has been provided which confirms that affordable housing is not viable on this site.

Waste management

The location of the bin store is within the 25m from the nearest collection point on the highway, although it would be essential to ensure that access to the bin store was not blocked for the collection crew emptying the bins and that flat, level access could be guaranteed, to facilitate collections. In order to help to ensure this and to reduce the amount of time that the collection vehicles spend parked up outside the property, it might be prudent to locate the bin store closer to the highway.

Summary Of Representations

Seventeen representations objecting to the scheme. A summary of the main planning related concerns are detailed below.

- Overdevelopment
- impact on infrastructure
- poor design and harmful visual impact
- impact upon the conservation area
- impact upon the character of the existing villa
- too large/tall

- out of character
- loss of outlook
- loss of light
- loss of privacy and overlooking
- noise and disturbance
- lack of parking & traffic congestion
- access issues
- drainage

Relevant Planning History

DE/2018/0062 - Demolition of existing building and formation of 17 Apartments; the general design proposal for a modern building was supported, it was suggested that further information regarding the fourth storey were submitted 06.11.2018

P/2003/1244 - renewal of P/1998/0844; approved 28.08.2003

P/1998/0844 - Alterations and erection of ground floor extension to provide 4 bedrooms and WCs to existing residents lounge; approved 27.07.1998

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

1. The principle of the development
2. Visual impact, including the setting of the St Marychurch Conservation Area
3. Impact upon the residential amenity of adjacent occupiers
4. The quality of the proposed residential environments
5. Highway, parking and movement impacts
6. Flood risk and drainage impact
7. Ecological impact
8. Arboricultural impact

1. The principle of the development.

The existing building is not Listed however it is within a Conservation Area and is therefore afforded some protection as an undesignated heritage asset. Any protection afforded to the building is because of its location within the Conservation Area and not because of its current architectural quality. It is evident that the original villa character of the building has been lost through the addition of a number of unsympathetic extensions over the years. The result of this is that little of the original villa is now visible and the building is of very poor architectural character/quality. Policy SS10 refers to conservation and the historic environment, this policy advises that all heritage assets will be protected, proportionate to their importance. In this instance the existing building is of no historical or visual importance and in fact has a detrimental impact on the character and appearance of the Conservation Area. The loss of the existing building is not a central issue to consider in this context and would be hard to resist in planning terms.

Policy H6 (Housing for people in need of care) states that proposals involving the

loss of existing care facilities will be supported where the facilities are no longer needed. The policy goes on to say that where a change of use from a care home is agreed, the creation of family homes will be encouraged. The care home closed down in 2017 and has not been in use since. Although the proposals may not necessarily consist of family homes, they do provide well-proportioned accommodation in a very sustainable location and will make a useful contribution to the housing stock in the area, as such they are deemed to comply with Policy H6 of the Local Plan.

The principle of residential apartments on the site is considered acceptable as it would reflect and sit comfortably with the predominant residential character of the area. The location is considered to be well suited for a residential use as the site is in a sustainable central location close to shops, social and recreational infrastructure and transport links.

The principle of providing a larger building on the site is generally supported in Local Plan policy guidance and in the NPPF, with the notion clear that development should seek to maximise the re-use of urban brownfield land, subject to other considerations. In further policy terms the provision of seventeen units on the site will also aid the delivery of new homes and the Council's 5 year housing supply.

In summary, in terms of planning policy and principle the demolition of the building is accepted. The site provides a good location for a residential use as there is a residential character to the area and the site is close to services and facilities and presents the efficient use of brownfield land that would help meet housing need and the Council's 5 year housing supply. This presents general accordance with the aims and objectives of Policies H1 (Applications for new homes), SS11 (Sustainable communities), SS12 (Housing) and SS13 (Five year housing supply) of the Local Plan.

2. Visual impact, including the setting of the St Marychurch Conservation Area.

The demolition of the existing building has previously been discussed, the current building has a detrimental impact on the character and appearance of the Conservation Area. As so little of the original villa remains it would not be possible to remove the unsympathetic additions

The site is located in a reasonably prominent roadside position within the St. Marychurch Conservation Area. It is therefore important to consider whether the scale and form of the proposed buildings fits with the overall grain of the area and does not adversely affect the character and appearance of the conservation area.

The modern design proposed under this development is comparable with other replacement villas in Torbay and there are examples of similarly designed

building within the area. The recent development at South Devon Hotel, 10 St Margarets Road (P/2017/0888) which is some 160m to the north-west of the application site and 178 St Marychurch Road (P/2009/0333) are examples of recent modern designed buildings to the St Marychurch area which resulted in higher density developments, making efficient use of brownfield sites. These buildings, and the proposed development, are responsive to the context of the area which is that of large detached villas and apartments.

The design has been revised during the application stage with the fourth floor being 15% smaller, the design now has more vertically proportioned openings, rendered white elevations, natural stone walling and a single principal projecting bay with open corners. The elevations have become simpler and more successful, and the fenestration clearly expresses a vertical emphasis to the openings, which reflects the Victorian properties that it seeks to reference. The applicant has followed advice from the Council's Historic Environment Officer in providing a modern design approach rather than a pastiche building. Although it is noted that Historic England appear not to favour this design form there are examples of this modern form within Conservation Areas and within former villa plots in Torbay. The modern design is deemed to be responsive to the Conservation Area and the concept of such a form of development is deemed to comply with Policy DE1.

As previously stated the proposal has been amended during the application stage with the fourth floor made more recessive and reduced in overall area by 15% with the overall proposal being reduced in width resulting in a 10% reduction to the size of the development overall.

The proposed building is a storey higher than the existing however it is set back from the road by a further 10m than the existing building which reduces its apparent size when viewed in the immediate context. This along with the recessed fourth storey reduces the size of the building when viewed from the wider Conservation Area. The information submitted by the applicant identifies a number of 3-5 storey buildings in the surrounding area although the immediate context is that of two-three storey villas.

Policy DE4 (Building heights) states that new development should be constructed to the prevailing height within its location. However the introduction of buildings higher than the prevailing building height will be supported where they;

- o Enhance the vitality of the area
- o Strengthen the character of the area
- o Are appropriate in terms of their visual impact
- o Make a positive addition to the built form

In this instance the proposal would replace an existing building of poor design which is currently vacant and replacing it with a taller building of a good quality design which would contribute towards Torbay's 5 year housing land supply.

The general scale of development is considered commensurate with the locality having regard to the surrounding density and character. Examples of more recent development that has been built have sought the efficient use of land and often resulted in an increase in building heights whilst still being in-keeping within the existing townscape.

The development, on balance, is deemed to lead to less than substantial harm to the significance of the Conservation Area and would provide a public benefit through the addition of a new, good quality building which would provide much needed housing. The proposal is deemed to comply with paragraph 196 of the NPPF and Policy SS10 of the Local Plan which requires development to conserve or enhance the character and appearance of Conservation Areas.

The orientation of the building, which is parallel to its boundaries, is considered to be suitable and picks up the historical context of the building layouts of neighbouring plots. The footprint of the building is modestly increased from 465m² to 503m² which is an increase in the built area of the site from 27.1% to 29.3%. Bearing this in mind the proposal is not considered to be an overdevelopment of the site and would comply with Policies DE1 & H1 of the Local Plan.

There is a Grade II Listed Building 30m to the north known as Alderbourne on Greenway Road, Policy HE1 states that development proposals should preserve any listed building and its setting. The proposal is considered to preserve the setting of the listed building and therefore complies with Policy HE1.

3. Impact upon the residential amenity of adjacent occupiers.

The existing properties to the east, the closest of which is Chilcote House is approximately 35m away. Although the proposed development will be taller than the existing building on the site, the distance between the existing properties to the east and the proposal is considered to be sufficient enough to have a limited impact on the privacy and amenity of the occupiers of these properties.

To the south the properties of 19-25 Manor Road are approximately 25m away and the southern boundary is well screened by existing mature trees. The proposed building is taller than the existing and includes balconies/terraces on its southern boundary however the distance between the properties and the existing boundary screening result in an acceptable level of overlooking/intervisibility.

The proposed building is set off of the west boundary by 4m and is 6m from the closest point of Sandhurst Court. The realignment of the building and the increase in height which will result in a development 2.2m higher than the highest point of the existing would inevitably result in a more dominant building when viewed from Sandhurst Court the built form would however be sited further off of the boundary than is currently the case and the fourth storey would be recessed

to the extent that the increase in height would have limited impact in terms of overdominance. However the building would be bulkier in terms of its height in relation to the boundary and in terms of the extent to which it protrudes further to the rear than the existing.

On balance the increase in bulk of the building is considered to be a suitable distance from the boundary and from the neighbouring property to the west for the relationship to be acceptable in terms of overdominance/overbearing impact. The increase in height and reorientation of the building would not cause an unacceptable increase in loss of light to habitable windows in Sandhurst Court given its location away from this boundary.

When considering overlooking/intervisibility between the proposed dwellings and the property to the west, Sandhurst Court, which is 6m at its nearest point, it is noted that there are more windows than in the existing building on the west elevation of the proposed building at first, second and third floor level (including the third floor terrace area). Subsequently there is likely to be more opportunity for overlooking and loss of privacy between the two buildings. Privacy could be protected by requiring a scheme of obscure glazing on the west elevation and a method of reducing overlooking from the west elevation of the third floor terrace by a planning condition.

On balance and subject to the addition of a condition regarding a scheme of obscure glazing, the proposal is considered acceptable in terms of its impact on residential amenity and compliance with policy DE3 of the Local Plan.

4. The quality of the proposed residential environments.

The individual apartments are all relatively large and are in excess of the minimum space standards laid out in the local plan.

The supporting text to policy DE3 of the Local Plan seeks to achieve a minimum size for dwellings and gardens and better designed homes. The unit sizes are consistent with the suggested standards as is the amount of communal garden space.

The units are all acceptable in terms of outlook, amenity and design and are considered compliant with the relevant paragraphs of the National Planning Policy Framework which refer to creating good quality living environments and policy DE3 of the New Local Plan.

5. Highway, parking and movement impacts

The scheme presents a widened and improved access point to the current arrangement this is supported by the Council's Highway Engineers as this is likely to present a safer entry and exit point with improved visibility.

The scheme proposes a parking ratio of 1:1 which is in accordance with the

parking level required by Policy TA3 for apartment schemes outside of town centres. It is noted that parking pressures have been raised as a concern in representations. The Highways Officer has advised that the parking provision is acceptable and because of one hour on street parking and being close to a local centre, visitor parking is not essential on this site. The garage spaces, which were below the size standards in the Local Plan have been replaced by undercroft parking.

There is an absence of disabled parking and the layout should accord for one space being at least 3.6m wide. The addition of one disabled parking space to the layout will be requested by condition.

Cycle parking has been engrained within the scheme in the undercroft area, further details of the siting of these spaces will be requested by condition. The provision is considered acceptable and these should be achieved by condition citing the provision prior to occupation and retention for such purposes at all times thereafter.

With an improved and safer access secured, together with adequate parking and cycle store provision, the proposal is considered acceptable on highway, movement and parking grounds and in accordance with the aims and objectives of Policies TA2 (Development access), TA3 (Parking requirements) and Appendix F (Car parking requirements) of the Local Plan.

6. Flood risk and drainage impact.

Torbay has been designated a critical drainage area (CDA) with a more rigorous surface water disposal strategy required in order to ensure that brownfield sites achieve much reduced rates of surface water runoff.

The developer has demonstrated that the use of infiltration drainage at this site is not feasible and he has therefore proposed a controlled discharge to the combined sewer system.

The proposed drainage strategy complies with the requirements of the Torbay Critical Drainage Area with surface water discharging to the culverted watercourse at a controlled discharge rate limited to 1.5l/sec. The developer has submitted calculations showing how the 1 in 10 year Greenfield run-off rate has been calculated.

Hydraulic calculations have been submitted to demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

The proposal therefore complies with the requirements of Policies ER1 and ER2

of the Local Plan.

7. Ecological impact.

The existing building has been surveyed for bats and no evidence of any current or recent bat use was found and the building was considered to have a low level of potential for roosting bats. No evidence of nesting birds was found within the roof or eaves of the building however the mature trees and shrubs in the garden offer suitable features for nesting birds and foraging bats.

The submitted Preliminary Ecological Appraisal states that the rear garden is likely to support slow worms. Subsequently recommendations during the construction phase have been identified within the accompanying ecological report to avoid disturbance to slow worms. The recommendations within the ecological report will be achieved with the addition of a planning condition. A condition regarding works during the bird nesting season is also considered necessary.

National and local guidance outlines that development proposals should take opportunities available to enhance biodiversity in order to respond to guidance within the NPPF and Policy NC1 (Biodiversity and geodiversity) of the Local Plan. A detailed landscape plan is considered through planning condition.

8. Arboricultural impact.

All trees on site are protected by virtue of being within a Conservation Area. The submitted Arboricultural Impact Assessment (AIA) states that the arboricultural impact of the development are generally low. The scale of tree loss (13) required to develop the site is low and the trees proposed for removal are all of low value and poor quality. The key trees will be retained within the proposed scheme. The retention of the key trees will screen the loss of the proposed vegetation that will be removed.

Although the building will be within shading influence of the trees to the south. The design incorporates window layout and design that maximises daylight and sunlight penetration, therefore shading from the trees is considered to be of limited concern.

The AIA is accompanied by a Tree Protection Plan, the recommendations in the AIA provide a mitigation strategy and measures to protect trees during the construction phase. Conditions ensuring the mitigation strategy and measures to protect trees on site is implemented are deemed necessary. A detailed landscape scheme is also deemed necessary through condition.

S106/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. If the application is deemed to be acceptable, an informative can be imposed, should

consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

With regards to affordable housing, Policy H2 (Affordable housing) states that the affordable housing requirement for a scheme of 15-19 dwellings on brownfield land is 15%. The applicant has submitted an Independent Viability Assessment which has been independently verified and confirmation has been received that the scheme would not be viable if affordable housing was provided. In accordance with the provisions of the Council's Planning Contributions and Affordable Housing SPD, a s.106 agreement will be required to ensure that the viability of the scheme is reviewed and a contribution towards affordable housing is paid if the scheme turns out to be more profitable than originally anticipated.

Neighbourhood Plan

The Torquay Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post examination draft neighbourhood development plan, so far as material to the application. The relevant policy for this application is Policy TH8 (Established Architecture). This policy requires development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings. Policy TH9 (Parking Facilities) requires that all housing developments meet the guideline parking requirements. Policy TH10 - Protection of the Historic Built Environment, requires development to conserve the character of the conservation area. The proposal is considered to be in accordance with the Torquay Neighbourhood Plan.

Statement on Human Rights and Equalities Issues Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

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

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.

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

Conclusions

Bearing the above points in mind it is deemed that the proposal is appropriate for conditional approval, having regard to all national and local planning policies and all other relevant material considerations.

Condition(s)/Reason(s)

01. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - a) A demolition method statement
 - b) The parking of vehicles of site operatives and visitors.
 - c) Loading and unloading of plant and materials.
 - d) Storage of plant and materials used in constructing the development.
 - e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - f) Wheel washing facilities.
 - g) Measures to control the emission of dust and dirt during construction.
 - h) Measures to minimise noise nuisance to neighbours from plant and machinery.
 - i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring

uses and in the interests of the convenience of highway users. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

02. No development, other than demolition, shall take place until details of the proposed cladding materials (walls and roofs), boundary materials and openings have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

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

03. Prior to the first occupation of the development hereby permitted, the cycle storage and area for the storage of refuse and recycling, awaiting collection, shall be provided in accordance with the approved plans and shall be retained as such for the life of the development.

Reason: In interests of visual amenity and in accordance with Policies DE1 & TA3 of the Torbay Local Plan 2012-2030.

04. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 2, the erection, construction, or alteration of a gate, fence, wall or other means of enclosure shall not take place within the application site unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

05. Notwithstanding the submitted landscaping details, prior to the first occupation of the development hereby approved, details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

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

06. Prior to any works above damp proof course level, details of a scheme of obscure glazing in relation to the windows on the western elevation and restricted use of the third floor terraced area shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail how overlooking into the windows of Sandhurst Court will be minimised. The approved obscure glazing and restrictions shall be implemented in full prior to the first use of the associated dwellings, and shall be retained as such at all times thereafter.

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

07. The development shall be undertaken in strict accordance with the measures in the tree protection plan and those within the mitigation strategy and conclusions within the Arboricultural Impact Assessment Report.

Reason: To ensure trees are protected in the interests of biodiversity and visual amenity in accordance with policies SS10, NC1 and C4 of the Torbay Local Plan 2012-2030 and are required to be in place prior to commencement to duly protect the identified trees.

08. The development shall proceed fully in accordance with the assessment, conclusion/ recommendations detailed on page 7-8 of the Preliminary Ecological Appraisal (reference P2018-0962-2 received 19.09.2018) hereby approved.

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

09. The development shall be undertaken in strict accordance with the submitted drainage details and retained as such at all times thereafter.

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 Torbay Local Plan 2012-2030 and advice within the NPPF

10. The development hereby approved shall be constructed in strict accordance with finished floor and ridge levels in relation to an agreed fixed point or O.S. datum which shall be submitted to the Local Planning Authority prior to any development other than demolition.

Reason: To ensure a satisfactory form of development that is in keeping

with the area and does not impact upon the neighbouring existing dwellings, and to ensure that the proposal accords with DE1 of the Torbay Local Plan 2012 to 2030.

11. Prior to the first occupation of any of the dwellings hereby approved, the parking facilities, electric charging points and works to the access shall be provided and thereafter permanently retained for the parking of vehicles in accordance with plans to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

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

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

Informative(s)

01. All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.
02. 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

- TH8 - Established Architecture
- TH9 - Parking Facilities
- TH10 - Protection of the Historic Built Environment
- DE1 - Design
- DE3 - Development Amenity
- TA2 - Development access
- TA3 - Parking requirements
- C4 - Trees, hedgerows and natural landscape
- NC1 - Protected sites - internationally import
- HE1 - Listed Buildings
- H1 - New housing on identified sites
- H6 - Affordable housing on unidentified sites
- DE4 - Building heights
- ER1 - Flood Risk
- ER2 - Water Management