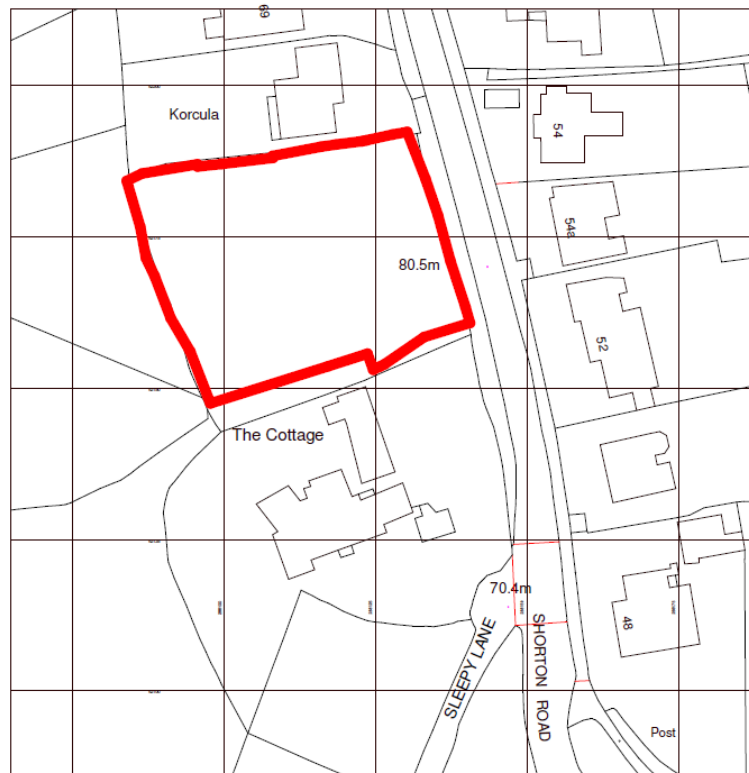


Application Site Address	Land North of Shorton Manor Shorton Road Paignton TQ3 1RG
Proposal	Construction of single detached dwelling within curtilage of listed building.
Application Number	P/2019/0019
Applicant	Mr & Mrs Williams
Agent	Mr Nathan Paull - Narracotts Architects
Date Application Valid	21/01/2019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

**Location Plan:**



## **Site Details**

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

## **Description of Development**

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

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

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

## **Pre-Application Enquiry**

DE/2017/0445: Formation of dwelling.

## **Relevant Planning Policy Context**

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

## Development Plan

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

## Material Considerations

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

## **Relevant Planning History**

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

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

## **Summary of Representations**

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

A summary of the concerns raised in objection include:

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

Comments raised in support include:

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

## **Summary of Consultation Responses**

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

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

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

### **County Archaeologist:**

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

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

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

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

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

**Historic England:**

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

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

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

- AIA-SHM-19a

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

*on site is required temporary ground protection will be required and is shown within the report.*

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

### **Recommendation**

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

### **Note**

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

### **Torbay Council Highways Engineer:**

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

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

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

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

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

### **Drainage Engineer:**

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

## **Key Issues/Material Considerations**

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

## **Planning Officer Assessment**

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

The proposal is for the erection of a dwelling.

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **6. Ecology and Biodiversity**

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Sustainability**

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

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

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

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

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

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

### **EIA/HRA**

EIA:

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

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

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

### **Officer Recommendation**

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

### **Conditions or Refusal reasons**

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

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

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

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

### **Materials**

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

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

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

### **Bicycle Storage**

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

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

### **Refuse Storage**

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

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

### **Ecological Impact Assessment**



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

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

### **Parking and Manoeuvring Provision**

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

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

### **Construction Method Statement**

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

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

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

## **Landscaping**

All planting, seeding or turfing comprised in the approved landscaping details (plan reference 611-01A received 28<sup>th</sup> May 2019), shall be carried out in the first available planting and seeding season following the first occupation of the dwelling. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

## **Boundary Treatment**

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

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

## **Arboricultural Impact Assessment**

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

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

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

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

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

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

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

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

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

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

### **Flood Risk Assessment**

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

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

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

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

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

### **Informative(s)**

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

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

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

### **Relevant Policies**

C4 – Trees, Hedgerows and Natural Landscape Features

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

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