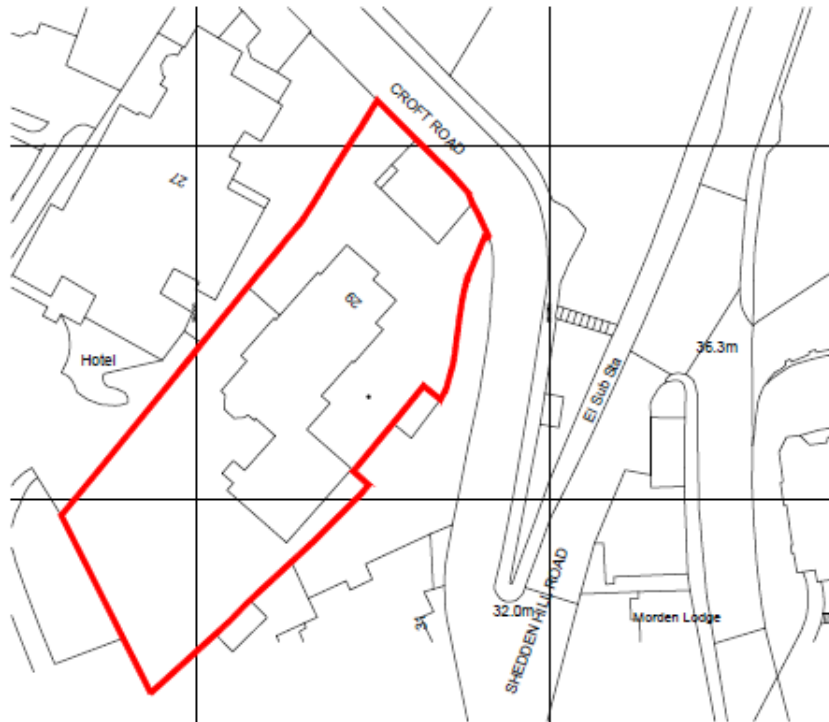




Application Site Address	Shelley Court Hotel 29 Croft Road Torquay TQ2 5UD
Proposal	Change of use, regeneration, extension and alterations to the former hotel to create 10 one- and two-bedroom apartments and 1 house.
Application Number	P/2019/0337
Applicant	Mr Mark Lawn
Agent	Ms Magdalena Krzak - Narracotts Architects
Date Application Valid	10/04/2019
Decision Due date	10/07/2019
Extension of Time Date	18/10/2019
Recommendation	Conditional approval subject to the conditions detailed below and the completion of a legal agreement. Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, 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 it being of a major nature.
Planning Case Officer	Emily Elliott

**Location Plan:**



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### **Site**

The site is a two-storey, former hotel that is noted as being a key building in a group of original Victorian villas that were built between 1830-1860. The site includes a Coach House and two vehicle entry points. The building has undergone significant alterations and extensions over the decades, including a three storey extension to the southern elevation. The site area is 2,028 square metres. The site lies to the southern side of Croft Road and is adjacent to a hotel at No.27 Croft Road and holiday apartments, at No.31 Croft Road. The site is within the Belgravia Conservation Area and is subject to an Area Tree Protection Order (1976.09 Area 2).

### **Details**

### **Description of Development**

The proposal seeks to change the use of the property from a hotel to 10 one- and two-bedroom apartments. The proposal would also include a detached house, which the applicant states is already in use as a dwelling. The proposal includes the demolition of the existing three-storey extension to the eastern elevation; the demolition of a single-storey, flat roofed extension to the northern elevation; the erection of a two-storey extension to the eastern elevation; and the erection of a single-storey extension to the southern elevation.

The proposed apartments would be situated on the lower ground, ground and first floors of the main building, along with the basement. The house is located in the Coach House at the northern end of the site. The proposal includes individual amenity spaces for apartments 1 to 6, with a communal outdoor amenity space in the lower garden for these and the remaining apartments, 7 to 10. The Coach House will have its own separate amenity space.

The proposal removes an existing vehicular access from Croft Road and alters the other existing access. The proposal also includes ten parking spaces for the apartments and a garage for the house. The site is located in close proximity to Shedden Hill Pay & Display Car Park, with the lower garden indicated in the proposed layout displaying the retention of an existing pedestrian access to the car park through a secure gated entry point.

### **Pre-Application Enquiry**

DE/2017/0220: Conversion, alteration and new development to form 10 x Residential Units (C3).

DE/2016/0183: Conversion of hotel into 14 residential flats.

### **Relevant Planning Policy Context**

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

#### Development Plan

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

#### Material Considerations

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

### **Relevant Planning History**

P/1999/0334: Installation Of Upvc Windows And Formation Of Roof Terrace. Approved 30.04.1999.

P/1998/0819: Alterations And Erection Of Extension To Bar Lounge. Approved 10.07.1998.

P/1990/2023: Alterations And Extensions To Form Covered Pool And Function Room, Additional Accommodation And Facilities And Increase In Parking. Approved 14.03.1991.

P/1990/2084: Demolition Of Parts Of Building. Approved 14.03.1991.

P/1986/2433: Alterations/Extensions To Staff/Store Rooms To Form Owners Accommodation. Approved 19.12.1986.

P/1982/1708: Illuminated Aa And Rac Signs. Approved 31.08.1982.

P/1979/1890: Provision of a fire escape. Approved.

P/1978/2697: Additional bedrooms. Approved.

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. Thirty-seven neighbour notification letters were sent to those neighbours which the development could affect. 1 letter of support has been received.

Comments raised in support include:

- Regeneration
- Impact on local area
- It provides houses
- It removes an eyesore
- Makes tourist facilities better
- Assists the economy

### **Summary of Consultation Responses**

#### **Police Designing Out Crime Officer:**

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority, please find the following to assist with compliance:-

ADQ creates security requirements in relation to all new dwellings, including those resulting from a change of use, for example commercial, warehouses or barns undergoing conversion into dwellings. It also applies to conservation areas.

All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 2016.

As such it is recommended that all external doors and accessible windows are sourced from a Secured by Design (SBD) member-company. The requirements of SBD are that doors and windows are not only tested to meet PAS 24 2016 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

*Secured by Design (SBD) is a police owned initiative which aims to improve the security of buildings and their immediate surroundings to provide safe places to live, work, shop and visit, in conjunction with the following attributes of Crime Prevention through Environmental Design:-*

- Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security.
- Structure: Places that are structured so that different uses do not cause conflict.
- Surveillance: Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent creating areas that could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping and dog fouling etc. to go unnoticed.
- Ownership: Places that promote a sense of ownership, respect, territorial responsibility and community.
- Physical protection: Places that include necessary, well-designed security features as laid out in SBD Homes 2019.
- Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime, fear of crime and a sense of safety at all times.
- Management and maintenance - Places that are designed with management and maintenance in mind to discourage crime, fear of crime and ASB.

Parking - It is respectfully requested that prior to determination the parking provision for the proposed development is considered sufficient when balanced against the overall accommodation schedule, especially as even a one bedroom dwelling could attract 2 vehicles. The concern would be that if there is insufficient parking vehicles will be parked elsewhere which could introduce a source of conflict as a result of inconsiderate or obstructive parking on nearby roads.

The communal cycle store should satisfy the requirements recommended by Secured by Design (Homes 2019)

Secured by Design no longer permit tradesperson buttons for multi-occupancy premises due to an increase in crime and antisocial behaviour, as such the delivery of mail and the reading of utility meters should be considered at this time.

Each apartment must have a visitor door entry system with audio and visual capabilities.

Each private amenity space should be securely enclosed with the boundary treatments attaining an overall minimum height of 1.8m to deter and prevent unauthorised access.

All gates that lead to private amenity space should match the same height and robust construction as the adjoining boundary treatment and be capable of being locked from both sides as this will enable the space to be secure regardless of access or egress.

External pedestrian access must be controlled to deter and prevent unauthorised trespass, especially to the rear of the building.

**Torbay Council's Senior Environmental Health Officer:**

No objections.

**Torquay Neighbourhood Forum:**

The proposed development is in general compliance with the Tourism policies of our Neighbourhood Plan and is therefore supported as a good example of a regeneration project of a rundown unsustainable hotel in a backwater location. The change of use will help improve the area and support those tourism businesses in the vicinity that can be sustainable by virtue of the improved quality of the street scene. It will also provide good quality homes.

**Torbay Council's Interim Heritage Advisor:**

For reference my original observations were as follows:-

Shelley Court is quite an important building in the Conservation Area in that it occupied a corner site and occupies the foreground of the vista across the town when viewed from the top of Croft Road. From this vantage point it is clearly evident that the original villa style building has been much altered and extended including flat roofed extensions and external metal stair cases, nevertheless the original core building is still readable. The proposed scheme has a number of positive aspects most notable being the removal of the large three storey block which forms the south eastern wing of the building which includes unsightly metal stairs, a single storey flat roof extension is also being removed from the north elevation. A positive unification of the fenestration to paint timber is also proposed.

Whilst the removal of the non-traditional additions are supported these have to be considered alongside the acceptability of the proposed new works. I am mindful of the viability issues in that whilst it would be desirable to simply restore the building to its original form without any additions it is difficult to see how this would be viable

Coach House – This is located at the front of the site and whilst it has been altered over the years its retention is considered desirable and the alterations proposed whilst very minor could be regarded as being positive.

New two storey wing – This replaces the existing modern wing and has been designed to reflect the existing core building albeit, the solution is undoubtedly far more elegant and appropriate to the character of the area than the existing arrangement and overall I would regard this as representing enhancement. The rear elevation is an exact mirror of the original core building. It will be important to condition the fenestration details of the material and design to ensure that they are of a quality relevant to the main building.

Rear extension – Apartments 5 or 6. This represents a significant modern style extension to the building. Whilst it is largely concealed from public view due to vegetation and land levels I am concerned that it creates a harsh foreground and will dominate the core building when viewed from the rear garden. Please note that the land levels are such that the elevational drawings do not portray the view which will be obtained from the lower level of the rear garden. I would suggest there is some scope to improve this, for example the retaining wall on the apartment amenity areas might be clad with natural stone and it would be desirable to try to better align the supporting pillars and fenestration to align with the building above. I appreciate that the glazing is recessed into the building but still feel that more could be done to help unify. It may also be worth considering a more muted tone for the render colour of this addition.

Further observations on the amended plans received 20<sup>th</sup> August 2019:-

I note that that architect has responded positively to the concerns expressed regarding the rear extension. The revised proposals are considered to represent an improvement. Given the concealed position of the rear wing in terms I am satisfied that the design revisions now achieve an acceptable balance and the proposal as a whole is acceptable and will serve to preserve the special character and appearance of the Conservation Area. Please note that it remains important to ensure that the design details such as fenestration and materials are suitably conditioned.

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

I have reviewed the arboricultural documents in relation to the above development. I am satisfied with the submitted arboriculture report and plans and fulfils the requirements of BS5837. However, the Proposed Landscape Ref 05159 TPP (tree survey) is in fact a tree protection plan and not a landscape scheme. Although the plan shows the locations for the new planting there is no further detail. Please could you request a detailed landscape scheme through a planning condition.

**Torbay Council's Highways Engineer:**

The applicant has not shown any visibility arms on the proposed layout plan, whilst the visibility is poor, but as it is a narrower altered existing access they can't have the visibility improved because of the coach house. The Developer may argue there were more trips when it was a hotel using this access, and they have removed the other access on the blind corner of Croft Road. A T-Bar might improve the visibility for vehicles exiting the site.

**Torbay Council's Senior Strategy and Project Delivery Officer:**

There may be mitigation or viability considerations on this site, however, although CIL liable, please note the proposal would also appear to be liable to planning obligations towards loss of employment (£8k per FTE job lost) also. Employment: All applications with an employment ... impact. 'Tariff style' contributions are only sought

from sites of 11+ dwellings/6+ in the AONB; or where there is a combined floorspace of more than 1,000 sq m.

**Torbay Council's Waste Client Manager:**

No objections.

**Torbay Council's Drainage Engineer:**

The developer has identified that he is unable to undertake infiltration testing in accordance with BRE 365 on the site until the existing building has been demolished. The developer has identified that he will undertake the relevant infiltration testing once the demolition has taken place.

As a result of being unable to undertake the infiltration testing the developer has submitted a drainage strategy that includes a controlled discharge from the site to the combined sewer system in order to demonstrate that it is possible to design a surface water drainage system for the development.

Providing the developer submits the relevant details to demonstrate that the drainage strategy including a controlled discharge rate 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, I would accept a condition being placed on the planning approval. This condition must identify that following demolition the infiltration testing in accordance with BRE 365 must be undertaken. If the results of this infiltration testing identify that it is feasible to use infiltration drainage on the site the developer must supply a detailed design for the proposed infiltration drainage prior to any construction works being commenced on the site. Only if the infiltration testing identifies that infiltration drainage is not feasible would the developer be allowed to use a controlled discharge to the combined sewer system for this development.

With regards to the drainage strategy that has been submitted, the controlled discharge rate that has been identified is 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area.

There are no plans within the surface water drainage strategy showing the proposed surface water system, attenuation location or location of the discharge to the combined sewer system. The only details that have been submitted is the hydraulic calculations for sizing attenuation. This does not demonstrate that the surface water drainage system 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 developer must supply a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels,



invert levels, pipe diameters, pipe gradients, pipe numbering used in the hydraulic modelling and details of the impermeable areas discharging to each pipe length. All of this information is required to be included within the hydraulic modeling.

The developer must 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. Therefore the developer must supply hydraulic calculations for the entire surface water sewer system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

Based on the above comments, before planning permission can be granted the applicant must supply details and designs for the entire surface water drainage system for this development in order to address points 5, 6 and 7. Providing these points are addressed I would accept the use of a planning condition similar to that outlined in point 3.

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

1. Principle of Development
2. Impact on the Character of the Area
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Ecology and Biodiversity
6. Flood Risk and Drainage
7. Affordable Housing Contributions
8. Designing Out Crime

### **Planning Officer Assessment**

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

The proposal is for the change of use of a former hotel to 10 one- and two-bedroom apartments, and a separate detached house.

Policy TT1 of the Torquay Neighbourhood Plan states that a change of use to residential dwellings from tourism properties outside the Core Tourism Investment Areas (CTIAs) will be supported subject to the site being of limited significance to the tourism setting (typically 10 letting rooms or less of serviced holiday accommodation), or there is a lack of viability for tourism (including that it can be demonstrated that the current business has been marketed on realistic terms for 12 months without sale), or at least half of the units within the property are already of Class C3 residential status.

Policy TO2 of the Local Plan states that facilities and accommodation outside of CTIAs that make a major contribution to the tourism offer will be protected, in rural and urban

areas. The change of use of holiday accommodation or facilities outside CTIAs will be permitted where:

1. The holiday character of the area and range of facilities and accommodation offered are not undermined; and
2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

It is considered that the proposed change of use would not undermine the holiday character of the area nor the range of facilities and accommodation offered given the poor state of repair that the building is currently in. Furthermore, the proposal for the change of use would redevelop the site and will bring regeneration to the area, in terms of removing unsympathetic extensions and renovating the building to have an improved appearance that will enhance and preserve the Belgravia Conservation Area. It is considered that the proposal would have a positive impact on the local area and would enhance the settings of surrounding tourist facilities by removing an eyesore and regenerating a tired site.

Policy TO2 also states that where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Where appropriate there will be a requirement to reinstate amenity space lost through over-development as a holiday use. A high priority will be given to restoring the character and appearance of buildings within Conservation Areas. The Council's Interim Heritage Advisor goes on to state that the removal of the single storey flat roof extension to the northern elevation, and the three storey extension to the eastern elevation are supported, and consideration to the proposed extension is considered acceptable given the viability issues, as restoring the building to its original form without any additions would cause viability issues. The proposal is considered to accord with Policy TO2 of the Local Plan.

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. The proposal would therefore comply with Policy H1 of the Local Plan.

## **2. Impact on the Character of the Area**

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

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 TT2 of the Torquay Neighbourhood Plan states that within designated conservation areas, whether inside or outside of a CTIA, change of use from tourist accommodation and other development proposals requiring consent will be supported in principle to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

A letter of support has been received that the proposal would have a positive impact on the local area.

The proposal is to change the use of the former hotel into residential accommodation. The Shelley Court Hotel is noted as a key building in the Belgravia Conservation Area in that it occupies a corner site and occupies the foreground of the vista across the town when viewed from the top of Croft Road. It is clearly evident that the original Victorian villa building has been heavily altered and extended including flat roofed extensions and external metal stair cases, nevertheless the original core building is remains readable.

The Council's Interim Heritage Advisor supports the proposal. The revised plans, demonstrate that the proposed rear extension is in a concealed position and that the revised design now achieves an acceptable balance and the proposal as a whole is acceptable and will serve to preserve the special character and appearance of the Belgravia Conservation Area. In terms of the alterations to the Coach House, which is located at the front of the site, it is considered that the proposal is minor in nature and could be regarded as positive alterations to the existing building. The replacement extension to the eastern elevation, has been redesigned to reflect the existing core building and it is considered to provide a more appropriate extension to the character of the area than the existing extension, and enhances the Belgravia Conservation Area.

The Council's Advisor commends the removal of the large three storey block which forms the eastern wing of the building and includes unsightly metal stairs when viewing the northern elevation, along with the removal of a single storey flat roofed extension from the northern elevation. A positive unification of the fenestration to painted timber is also proposed. The Council's Advisor goes on to state that the removal of such features are supported, and consideration to the proposed extension is considered acceptable, particularly as restoring the building to its original form without any additions would cause viability issues.

Conditions are recommended to secure details of materials and fenestration details.

It is considered that the setting and character of the Belgravia Conservation Area will be preserved, and the proposal would not result in harm to this heritage asset.

Given the proposal's siting, scale, and design, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or streetscene in accordance with Policies DE1 and SS10 of the Local Plan, Policies TH8 and TT2 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

### **3. 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.

Policy DE3 sets out the minimum floor space standards for new dwellings. Apartment numbers 1, 2, 7 and 8 exceed the minimum requirements for one bedroom units, ranging between 45 to 51 square metres in size. The minimum set out by the guidance for two bedroom apartments is 70 square metres, with apartment numbers 3, 4, 5, 6, 9 and 10 ranging between 69 to 92 square metres in size. The minimum internal floor space set out by the guidance for a two storey, two bedroom dwelling is 79 square metres, and the Coach House has an internal floor area of 140 square metres. Therefore, the proposed residential accommodation complies with Policy DE3 of the Local Plan.

Policy THW4 of the Torquay Neighbourhood Plan states that all new houses shall have not less than 20 square metres of outside space and must have garden areas with not less than 10 square metres of space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. Flats or apartments must have either a balcony of not less than 10 square metres and as appropriate to the size of the home or a communal green area of not less than 10 square metres per unit within the curtilage of the property. Apartments 1 to 6 have their own individual allocated amenity spaces that comply with the requirements of Policy THW4,

apartments 7 to 10 would have access to the lower, communal garden area. The proposed house has its own separate outdoor amenity space. The site also benefits from being within close proximity to Torre Abbey Sands, Abbey Park and Abbey Meadows.

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. A planning condition can be employed to ensure that parking bay 'P05' is specifically allocated to Unit 1, to protect the future occupier against potential vehicular headlight intrusion. A further planning condition will be employed with regards to Unit 4 to ensure that a suitable scheme of mitigation is provided for the future occupiers, to prevent headlight intrusion into the dwelling's windows from vehicles entering the site and potential nuisance occurring from the use of the communal area.

Given the proposal's siting, design and orientation in relation to adjacent neighbours it is considered that the proposed development would not have a detrimental impact on the amenity of neighbours, in terms of their outlook, privacy, or access to natural light.

A planning condition will be employed to secure the boundary treatments of the site to ensure an acceptable level of privacy is maintained between future occupiers and also adjacent neighbours. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

#### **4. 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 TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future. Policy TH9 goes on to state that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel.

The proposal removes an existing vehicular access from Croft Road which is sited on a blind corner and alters the other existing access. The Council's Highways Engineer has stated that a T-Bar may assist in improving visibility when vehicles exit the site.

The proposal includes ten parking spaces for the apartments and a garage for the house. There would be no provision for visitors parking and the proposed house would not have the required two off-street parking spaces. However, the site is in a sustainable location and in close proximity to Shedden Hill Pay & Display Car Park, and the site would retained direct pedestrian access to this car park through a secure gated entry point. Therefore, the shortfall of off-street parking onsite is considered to be adequately mitigated.

The Council's Waste Client Manager is satisfied with the proposed waste arrangements. The proposed bicycle storage is not considered adequate given the dimensions of the proposed structure. 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 proposal would have an acceptable impacts in terms of highway safety, and would provide sufficient parking spaces.

## **5. Ecology and Biodiversity**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale.

The application is supported by a Preliminary Ecological Appraisal (PEA). The report states that the site is not located within the South Hams SAC Greater Horseshoe Bat Zone and that the proposed development is unlikely to have any impact on roosting bats and there are no apparent bat constraints to the proposed works.

The PEA discusses potential mitigation measures which are recommended as a planning condition. 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 (1976.09 Area 2) and is also located within Belgravia Conservation Area, which affords statutory protection to the trees on site. The application is supported by an arboricultural report and associated plans, to which the Council's Senior Tree and Landscape Officer has stated that the submitted documents fulfil the requirements of BS5837.

The proposed development would necessitate the removal of four trees (two bay trees, a palm tree and an ash tree) and mixed woody shrubs from the site to accommodate alterations to the building and car parking area. 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 a planning condition for a suitable landscaping scheme. The proposed development is considered in accordance with Policy C4 of the Local Plan.

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

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

The site is located within 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, which are considered acceptable.

The applicant must demonstrate that they have investigated a sustainable drainage system and provide details of why this is not feasible for the development site. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the combined sewer must be limited to greenfield run off rate for the 1 in 10 year storm 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 40% allowance for climate change. It should be noted that where the greenfield run-off rate for the site is below 1.5l/sec, a discharge rate of 1.5l/sec will be accepted. The applicant must submit their design to demonstrate that their surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to their development for the critical 1 in 100 year storm event plus a 40% allowance for climate change.

Subject to the use of a planning condition to secure acceptable surface water drainage arrangements, the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

## **7. Affordable Housing Contributions**

The proposal falls below the threshold for affordable housing contributions as outlined in Policy H2 of the Local Plan which seeks affordable housing contributions on brownfield sites of fifteen dwellings or more.

## **8. Designing Out Crime**

The Police Designing-Out Crime Officer has made recommendations intended to ensure that the proposal would be adequately designed to prevent opportunities for crime and anti-social behaviour. Officers recommend the use of a planning condition to secure a scheme of crime prevention measures. Subject to the use of this condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and TH2 of the Torquay Neighbourhood Plan.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would make use of an existing building within the existing urban area and is located in close proximity to local amenities and good public transportation links.

### **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:

The Planning Contributions and Affordable Housing Supplementary Planning Document (February 2017) requires that development proposals resulting in a loss of jobs to be subject to compensatory financial contributions. The SPD states that a hotel (use class C1) which is a limited service/budget hotel would have an estimated 1 full-



time equivalent (FTE) per 5 rooms. The loss of employment contribution is calculated on the basis of the number of jobs lost multiplied by £8,000. The Shelley Court Hotel had 26 chargeable rooms, given the estimated ratio the FTE would be 5.2 x £8,000, which gives a total of £41,600.

The required sum of money should be secured through the completion of a legal agreement prior to a planning permission being issued.

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

### **EIA/HRA**

EIA:

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

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

### **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 Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

Conditional approval subject to the conditions detailed below and the completion of a legal agreement. Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning and Transport.

### **Conditions**

### **Window and Door Details**

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

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

The development shall then proceed in accordance with the approved details and shall be carried out in full prior to the first occupation of the apartment.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the Belgravia Conservation Area in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Materials**

No development above damp proof course level shall take place until the developer has submitted samples of all the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of Belgravia Conservation Area and the streetscene in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood 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.

### **Ecological Impact Assessment**

The development shall proceed, and shall be retained thereafter, in full accordance with the 'Potential Impacts and Mitigation' detailed on page 5 of the Preliminary Ecological Appraisal (plan reference 'P20190337-02' received 30<sup>th</sup> March 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.

### **Bats and Breeding Birds**

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

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

### **Designing Out Crime**

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

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

### **Permitted Development Rights**

Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Schedule 2, Part 1 Classes A, B, C, D, E and G in relation to the dwellinghouse hereby approved shall be constructed without the prior written consent of the Local Planning Authority.

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

### **Parking and Manoeuvring Provision**

The development hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the plan reference "Proposed Layout" (plan reference "2343-PA-02 (B) received 20<sup>th</sup> August 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.

### **Landscaping**

Prior to the first occupation of the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within 8 weeks of the development being brought into use, and shall be retained for the life of the development.

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

### **Boundary Treatment**

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

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

### **Communal Garden**

The development hereby approved shall not be occupied or brought into use until the 'residents amenity area – lower garden' detailed on the plan referenced "Proposed Layout" (plan reference "2343-PA-02 (B) received 20<sup>th</sup> August 2019) has been provided in full. This communal garden area shall thereafter be retained for the use of all of the development's occupiers for the life of the development.

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

### **Bicycle Storage**

Notwithstanding the submitted bicycle storage shown on plan reference '2343-PA 02 B' received 20<sup>th</sup> August 2019, 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, the approved refuse storage on plan reference '2343-PA 02 B' received 20<sup>th</sup> August 2019, shall be provided in full and 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.

### **Unit 1 – Allocated Parking Space**

Prior to the first occupation of Unit 1 hereby approved, the parking space 'P05' on the plan referenced '2343-PA 02 B' (received 20<sup>th</sup> August 2019), shall be specifically allocated to that unit and thereafter retained as such.

Reason: To ensure an adequate internal living environment and to ensure compliance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

#### **Unit 4 – Residential Environment**

Notwithstanding the details on the approved plan referenced '2343-PA 02 B' (received 20<sup>th</sup> August 2019), no development shall take place until a scheme of mitigation, to protect the amenities of the future occupiers of Unit 4, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

- Vegetation and boundary railings off Unit 4's northern and eastern elevations to provide a stand-off from its windows, to prevent headlight intrusion into the dwelling's windows from cars entering the site and potential nuisance occurring from the use of the communal area.

The approved measures shall be implemented prior to the first occupation of Unit 4 and shall be retained for the life of the development.

Reason: To ensure an adequate internal living environment and to ensure compliance with Policy DE3 of the Torbay Local Plan.

#### **Unit 11 (The Coach House) – Residential Environment**

Notwithstanding the details on the approved plan referenced '2343-PA 02 B' (received 20<sup>th</sup> August 2019), no development shall take place until a scheme of mitigation, to protect the amenities of the future occupiers of Unit 11, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

- Vegetation and boundary treatment to Unit 11's southern and western elevations to provide a stand-off from its windows, to prevent headlight intrusion into the dwelling's windows from cars entering/leaving the site.

The approved measures shall be implemented prior to the first occupation of Unit 11 and shall be retained for the life of the development.

Reason: To ensure an adequate internal living environment and to ensure compliance with Policy DE3 of the Torbay Local Plan.

## **Flood Risk Assessment**

Prior to the commencement of development, excluding the demolition works, a detailed surface water drainage scheme for the site shall have been submitted to the Local Planning Authority in writing. Priority shall be given to sustainable urban drainage systems, where soakaways must be designed in accordance with Building Research Establishment Digest 365 and include details of how they have been designed to cater for the 1 in 100 year critical rainfall event plus an allowance for climate change. Evidence that trial holes and infiltration tests have been carried out in accordance with Building Research Establishment Digest 365 in the same location as any soakaways or sustainable drainage features must be provided. The scheme shall demonstrate that there will be no increased risk of flooding to surrounding buildings, roads and land.

The development shall not be occupied or brought into use until an 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 Policies ER1 and ER2 of the Torbay Local Plan (2012-2030), the guidance contained in the NPPF, and the requirements of the designation of the Critical Drainage Area by the Environment Agency.

## **Informative(s)**

CIL?

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.

04. Community Infrastructure Levy (CIL)

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

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

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

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

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

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

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges



and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

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

### **Relevant Policies**

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

H2 – Affordable Housing

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

SS10 – Conservation and the Historic Environment

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

TO2 – Change of Use of Tourism Accommodation and Facilities

TH8 – Established Architecture

TH9 – Parking Facilities

THW4 – Outside Space Provision

TT1 – Change of Use Constraints Within and Outside a CTIA

TT2 – Change of Use in Conservation Areas and Listed Buildings