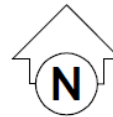




Application Site Address	14-16 Midvale Road Paignton TQ4 5BD
Proposal	Change of use from clinic (D1) to 10 x residential flats (C3)
Application Number	P/2020/0128
Applicant	Mr Adam Hesse
Agent	Mr Simon Blake – Charles Blake Associates
Date Application Valid	05/02/2020
Decision Due date	06/05/2020
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, 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:

SITE LOCATION PLAN



Site Details

The site is a semi-detached two-storey, former NHS health clinic that is noted as being a key building in a terrace of Edwardian buildings that were built between 1870-1915 and have a pantile or double Roman and derivative tiled roof over a brick façade. The building has both attic and undercroft space. The building amalgamated numbers 14 and 16 Midvale Road to accommodate the NHS health clinic and since has undergone minimal alterations over the decades. The site area is 895 square metres and the existing footprint is 215 square metres. The site lies to the eastern side of Midvale Road and the site falls from west to east. There is existing pedestrian access to the site from Midvale Road and vehicular access from the rear un-adopted service lane that provides an element of off-street parking. The site is within the Old Paignton Conservation Area.

Description of Development

The proposal seeks to change the use of the building from a clinic (D1) to 10 residential flats. The proposal includes minor external alterations to the building, namely alterations to the fenestration. The proposal will retain the wheelchair access ramp to the front of the property. The proposal will remove the existing cycle store to the front of the site, and will be replaced by a bin store.

The proposed apartments would be situated on the lower ground, ground, first and second floors of the building. The proposal includes minimal external alterations to the building. The proposal includes individual amenity spaces for flats 1 and 2, with no further amenity space allocated for the proposed development.

The proposal maintains the existing pedestrian access from Midvale Road and maintains the existing vehicular access from the un-adopted service lane to provide access to the existing off-street parking provision. The site is in close proximity to Paignton Town Centre. The proposal includes six parking spaces for the flats. The site is located in close proximity to Paignton Train Station (0.2 miles) and Paignton Bus Station (0.2 miles). It should be noted that adjacent to the public transport provisions are Great Western Pay & Display Car Park and Station Lane Pay & Display Car Park.

Pre-Application Enquiry

Not applicable.

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 Paignton Neighbourhood Plan 2012-2030

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice 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/2004/2002: Access Ramp And Automatic Door To Main Entrance (Revised Scheme). Approved 20/01/2005.

P/2004/1999: Demolition Works. Approved 20/01/2005.

P/2004/0983: Installation Of Access Ramp And Automatic Door To Main Entrance (As revised by plans received 29/7/04). Approved 17/08/2004.

P/2004/0973: Demolition Works In Connection With Installation Of Access Ramp And Automatic Door To Main Entrance (As revised by plans received 29/7/04). Approved 17/08/2004.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Fourteen neighbour notification letters were sent to those neighbours which the development could affect. 2 letters of objection have been received.

Concerns raised in objection include:

- Traffic and access
- Privacy/overlooking
- Trees and wildlife

Summary of Consultation Responses

Police Designing Out Crime Officer:

It states in the Design and Access Statement 'The Paignton Neighbourhood Plan 2012-2030 (TNP) was adopted in June 2019. The following PNP policies, amongst other, are relevant to this proposal; PNP1 (g) – Designing out crime' which is pleasing to note but there is no further reference or explanation as to how Designing out Crime or general crime prevention measures have been considered for the proposed scheme or where implemented.

To assist, 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 which is to inform the applicant:-

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 and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24.

As such it is recommended that all external doors and easily accessible windows that are to be replaced 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 free from charge police owned crime prevention initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places Secured By Design

The above should be considered in conjunction with the following attributes of Crime Prevention through Environmental Design (CPTED):-

Access and movement (Permeability) - Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security

1. The pedestrian gate to the side of plot 3 should be capable of being locked from both sides or some form of appropriate access control is considered for residents use only. The gate should be non-climbable and attain a minimum height of 1.8m. Ideally the gate should be of a 'see through' design' which can be metal or wood, as this can deter unauthorised access and reduce the fear of crime for residents especially during the dark hours.

Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict

2. Care should be taken when designing external shared amenity space (if applicable) so that activities or gatherings will not impact negatively on quality of life issues for other residents. For example smoking areas should be designed so that they are away from the building elevation so that smoke (and noise) does not permeate into apartments via windows

3. What is the intended use of the large space opposite the proposed parking area? Which appears to be excluded from the planning proposal?
4. Some form of barrier e.g. bollards or planting should be installed to protect the front boundary treatment of plot 2 from vehicles being parked/moved

Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked

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 Secured by Design Homes 2019 & Flat Entrance Door Sets – please find both guidance attached

5. Care should be taken to not inadvertently design in climbing aids such as drainpipes, low walls, window ledges etc. as these can provide access to balconies or windows of apartments at higher levels
6. Tradesperson buttons are discouraged by the police due to an increase in crime and disorder as such the delivery of mail needs to be considered. It is recommended that approved (SBD) external wall mounted mail boxes or a secure through the wall mail system are considered.
7. Utility meters should be capable of being read remotely
8. The main shared entrance door for plots 4 to 10 must have an access control facility and visitor door entry system with an audible and visual facility for each flat
9. Please refer to the attached SBD Flat Entrance Door Set guidance for the required standards and specifications for each individual flat entrance door

Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk 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 in the present and the future

10. If during the determination process it is agreed that waste and recycling will be collected from the front of the premises (Midvale Road) then suitable and practical storage must be factored in at the same location to encourage its use and deter/prevent wheelie bins and recycling boxes from being left out as this can

create safety and security issues, such as the bins being used as climbing aids or the contents used to start fires.

Parking - It is appreciated that local amenities are in close proximity to the proposed development and as such it has been assumed that future residents will be less likely to own a vehicle but unfortunately for many new developments in the county it would seem that the owning or private vehicles over walking, cycling or using public transport etc. remains the preferred method of transport for many, regardless of the close proximity to local amenities. As such it is respectfully requested that the parking provision of 7 spaces for 10 dwellings is carefully considered prior to determination to ensure that it is deemed sufficient when balanced against the overall schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and that the design of the parking is practical to use to encourage its use and to do all that is reasonable in preventing the potential for parking related complaints and issues for the nearby neighbourhood.

Torbay Council's Senior Environmental Health Officer:

No response received.

Paignton Neighbourhood Forum:

No response received.

Torbay Council's Senior Tree and Landscape Officer:

I have reviewed that above application. The site is within Old Paignton Conservation Area with a significant tree to the north-west corner of the site. I understand that the area to the rear of the building is to be used for the car parking for the proposed development but if this is to be upgraded then we would need to look at the impact of any works to the car park area would have on the tree.

Torbay Council's Highways Engineer:

The parking spaces are light being only seven, but very close to the Town Centre and probably had more trips as a Clinic. Unless I have missed it there are no electric charging points. Highways have no other technical issues with this Application.

South West Water:

No objection.

Torbay Council's Drainage Engineer:

I can confirm that providing the development is undertaken in accordance with the submitted site specific flood risk assessment and all of the proposed flood mitigation measures are incorporated into the development, I have no objection on drainage grounds to planning permission being granted for this development.

Torbay Council's Waste Client Manager:

As you are aware, TOR2 are not obliged to drive on to unadopted highway to collect waste and recycling as they are not insured to do so. Driving over unadopted highway could leave them open to claims of damage to the road, or conversely could cause damage to the collection vehicles, depending on its condition.

With the TOR2 contract ending this year and the services delivered by them being taken into the control of a local authority controlled company, Torbay Council does not wish to increase our liability in circumstances like this and we would like for the waste and recycling to be collected from the front of the property, on Midvale Road.

We are aware that there are currently some situations where TOR2 are driving on unadopted highway to complete collections, however, for future developments we need to avoid this. This is also something that will be reviewed once the contract with TOR2 is over.

Torbay Council's Interim Heritage Advisor:

No response received.

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. Trees
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 clinic (D1) to 10 residential flats (C3), nine of which are one-bedroom flats and one is a two-bedroom flat.

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 site is located within an established residential area. The principle of residential development on the site would be consistent with Policy H1 of the Local Plan.

The site is located within the Paignton Town Centre Community Investment Area as defined by Policy SS11 of the Local Plan. Policy SS11 states thirteen criteria that development proposals in Community Investment Areas should be assessed against. Criterion 13 of Policy SS11 states that development proposals insofar as they are relevant and proportionate to the development will be assessed in terms of providing a good standard of residential accommodation, by seeking to retain small to medium sized homes (2-4 bedrooms) and resisting change of use of these homes to HMOs and small self-contained flats. This applies especially in Community Investment Areas. It is considered that the building is a vacant, underutilised brownfield site, with the proposal offering minimal external alterations to a key building within the Old Paignton Conservation Area and also addressing the shortage in the Council's 5-year housing supply. Therefore, it is considered that on balance, the proposal is acceptable as other material considerations outweigh such concerns.

The previous use of the building as a NHS health clinic occupied all four floors, which ceased use a number of years ago. It is considered that the principle of development on balance is acceptable and utilises a vacant brownfield site.

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 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 is to change the use of the former NHS clinic into residential accommodation. The proposal includes minor external alterations to the building, namely alterations to the fenestration, predominantly the insertion of roof lights, windows and doors. The general fabric of the building will remain untouched. The building has existing high-quality, thermally-efficient uPVC double glazed windows that adhere to Building Regulations. The building has an element of redundant drainage pipework and other services to the external elevations that are unsightly and as such will be removed and the remaining downpipes will be rationalised.

The proposal will retain the wheelchair access ramp to the front of the property. The proposal will remove the existing cycle store to the front of the site, and will be replaced by bin storage. A set of full elevational drawings of the bin storage is required and therefore shall be included as a planning condition. It is considered that the timber clad

fence that is proposed to be sited on top of the existing wall to accommodate the bin storage is not acceptable and a more sympathetic, aesthetically pleasing material to enhance and preserve the Old Paignton Conservation Area, this shall also be included as a planning condition.

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.

The site is noted as a key building in the Old Paignton Conservation Area and is noted as the following; 'Nos 14-16 have been adapted to house an NHS Health Clinic, this somewhat eccentric pair, in a terrace of four, pile up Edwardian detail in an unusual architectural panoply: elongated eaves on sprocketed brackets; projecting windows below timbered mismatching gables; and a flat-roofed drum sprouting from a pentice roof. Amongst the uncluttered charms are the pierced-timber porches and the 'superior' margin panes above the single light mullion windows with their short horizontal glazing bars. The disabled entry ramp is, like many of its kind, entirely functional and devoid of any of the aesthetic qualities that go to make up the building'.

It is considered that the setting and character of the Old Paignton 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, Policy PNP1(c) of the Paignton 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.

The proposed change of use from a clinic to 10 residential flats. Table 23 of the Torbay Local Plan 2012-2030 sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standards. The following floorspace is provided for each residential unit:

Unit 1 = 50 square metres (1 bedroom, 2 bed-spaces).

Unit 2 = 59 square metres (1 bedroom, 2 bed-spaces).

Unit 3 = 72 square metres (2 bedroom, 4 bed-spaces).

Unit 4 = 44 square metres (1 bedroom, 1 bed-space).

Unit 5 = 50 square metres (1 bedroom, 2 bed-spaces).

Unit 6 = 50 square metres (1 bedroom, 2 bed-spaces).

Unit 7 = 50 square metres (1 bedroom, 2 bed-spaces).

Unit 8 = 45 square metres (1 bedroom, 1 bed-space).

Unit 9 = 40 square metres (1 bedroom, 1 bed-space).

Unit 10 = 50 square metres (1 bedroom, 2 bed-spaces).

The proposed units comply with the minimum gross internal areas stated in Policy DE3 of the Local Plan.

Policy DE3 of the Local Plan states that a minimum of 10 square metres of outside space should be provided per flat. The submitted plans indicate outdoor amenity spaces for Units 1 and 2, but the remaining units do not have any element of private or communal outdoor amenity space. It is considered that the site is within close proximity to public open spaces as such Queens Park (approximately 480 metres away), as well as Torbay Park and Paignton Sea front (approximately 800 metres away). The nearby locations of the public open spaces are considered to be sustainable. Given the Council's depleting housing land supply, when weighing up the material considerations, it is considered that the principle of development outweighs the lack of outdoor amenity space.

Each of the habitable rooms proposed within the development 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.

An objector has raised concerns regarding the impact the proposal would have on the privacy of adjacent neighbours. The proposal introduces fenestration to the rear façade of the building on the lower and ground floor levels and introduces roof lights to the front and rear roof planes. Given the siting, scale and design of the proposal 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.

The proposal is considered to comply with Policy DE3 of the Local Plan.

4. Impact on Highway Safety

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy 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.

The proposal retains its vehicular access to the rear of the site which is accessed from an un-adopted service lane. Objectors have raised concerns regarding traffic and access. The proposal includes six parking spaces for the flats, therefore there would be a deficit of five off-street parking spaces (1 parking space per flat, plus 1 visitor parking space). However, the Council's Highways Engineer has been consulted on this application and has stated that the site is in very close proximity to Paignton Town Centre and is likely to have generated more trips as a NHS health clinic. It is considered that the site is in a sustainable location on the cusp of Paignton Town Centre and in close proximity to Paignton Train Station (0.2 miles) and Paignton Bus Station (0.2 miles). It should be noted that adjacent to the public transport provisions are Great Western Pay & Display Car Park and Station Lane Pay & Display Car Park. Therefore, the shortfall of off-street parking onsite is considered to be adequately mitigated. A planning conditions is recommended to secure the parking provision, subject to this the proposal is considered to comply with Policy TA3 of the Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

Appendix F of the Local Plan also stated that provision of one bicycle storage space should be provided per flat. The proposed site layout indicates covered and secure bicycle storage to the rear of the site that can accommodate up to ten bicycles. A planning condition is recommended to secure the provision of bicycle storage.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes.

The Council's Waste Client Manager was consulted on the application and raised concerns regarding the originally submitted plans indicating the waste and recycling storage to the rear of the site due to the un-adopted highway. However, given the concerns raised the applicant has relocate the refuse and recycling storage to the front of the site to be accessed from Midvale Road and to enable the waste and recycling to be collected by the local authority waste collector. A planning condition is recommended to secure the waste and recycling storage. Subject to the aforementioned planning condition, the proposal is considered to comply with Policy W1 of the Local Plan.

5. Trees

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape,

historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The site is located within Old Paignton Conservation Area, which affords statutory protection to the trees on site. Objectors have raised concerns regarding trees and wildlife. The Council's Senior Tree and Landscape Officer notes that there is a significant tree sited in the north-west corner of the site. The rear of the site is to be retained for parking, the Officer has stated that if the parking area is to be upgraded then an assessment would need to be made regarding the impact of any works to the parking area would have on the tree. The applicant has confirmed that the existing carpark will remain in its existing form and therefore there will be no change to the surface, only the line work will alter. It is considered that some of the proposed parking spaces are within the crown spread of the tree, therefore a planning condition is recommended that should any works be undertaken to the car park that a methodology of construction works are to be agreed which includes hand digging only to protect the roots of the tree and to ensure a permeable surface treatment is used. Subject to the aforementioned planning condition, the proposed development is considered to comply 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. Policy PNP1(i) of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy. Policy PNP15 of the Paignton Neighbourhood Plan states that development proposals must comply with all existing flood risk policy requirements.

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 Council's Drainage Engineer has concluded that providing the development is undertaken in accordance with the submitted site specific flood risk assessment and all of the proposed flood mitigation measures are incorporated into the development, there is no objection to the proposal.

Subject to the use of a planning condition to secure the proposed flood mitigation measures and to accord with the submitted site specific flood risk assessment, the proposal is considered to be in accordance with Policy ER1 of the Local Plan and Policies PNP1(i) and PNP15 of the Paignton Neighbourhood 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

Policy SS11 of the Local Plan states that part of the criteria development proposals will be assessed against includes whether the proposal helps to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy PNP1(g) of the Paignton Neighbourhood Plan states that all developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to “Designing Out Crime” Guidance.

The Police Designing-Out Crime Officer was consulted on the application and 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 planning condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and PNP1(g) of the Paignton 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:

Not applicable.

CIL:

The land is situated in Charging Zone 1 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £30/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.

HRA:

Not applicable.

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 on balance 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 and flood risk. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Conditional approval subject to the conditions detailed below. Final drafting of conditions, 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 development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the Old Paignton Conservation Area in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood 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 and Policy PNP1(g) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Amenity Spaces – Garden Areas

Units 1 and 2 within the development hereby approved, shall not be occupied or brought into use until the amenity spaces detailed on the plan referenced "Proposed Layout" (plan reference "4013-101 C (inc layout)" received 16th April 2020) has been provided in full. These outdoor amenity spaces shall thereafter be retained for the occupiers of Units 1 and 2 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.

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 "4013-101 C (inc layout)" received 16th April 2020) have been provided. These elements shall thereafter be retained for the life of the development and made available for use of the occupants of the development hereby approved only.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Bicycle Storage

Prior to the first occupation of the development hereby permitted, the bicycle storage shown on the approved plans (plan reference "4013-101 C (inc layout)" received 16th April 2020) shall be provided. Once provided, the agreed bicycle storage shall be retained and maintained for the life of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Refuse Storage

Notwithstanding the submitted refuse storage details, in particular the proposed timber cladding, shown on plan references "4013-102 B (inc sections)" received 3rd April 2020 and "4013-101 C (inc layout)" received 16th April 2020, prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling facilities according to details, including materials and a full set of suitably scaled elevational drawings, 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 Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Tree Methodology

Works to the car park at any time following the commencement of development, including re-surfacing, that takes place within the crown spread of the Holm Oak tree sited in the north-west corner of the site shall only take place if details of the methodology of the proposed works have previously been submitted to and approved in writing by the Local Planning Authority. Such details will include the provision for hand-digging only within the crown spread of the tree. Development shall take place in accordance with the approved details

Reason: To protect trees in the interests of visual amenity in accordance with Policies DE1 and C4 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Flood Risk Assessment

The development hereby approved shall be undertaken in full accordance with the submitted site specific flood risk assessment, including the flood mitigation measures contained within the site specific flood risk assessment referenced "P2020-0128-1 A", received 3rd April 2020. The flood mitigation measures shall be provided prior to the occupation of the development and shall be retained as such thereafter.

Reason: In the interests of flood safety and in accordance with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030, Policy PNP1(i) of the Adopted Paignton Neighbourhood Plan 2012-2030 and the guidance contained in the NPPF.

Electric Charging Point

Prior to the occupation of the development hereby approved, a scheme for the insertion of one electrical charging point to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The agreed electrical charging point shall be thereafter maintained and retained for the lifetime of the development.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Planning Policy TA1, TA3 and Appendix F of the Adopted

Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

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.

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

SS11 – Sustainable Communities

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

W1 – Waste Hierarchy

PNP1(c) – Design Principles

PNP1(d) – Residential Development

PNP1(g) – Designing Out Crime

PNP1(i) – Surface Water

PNP12 – Getting Around

PNP15 – Flood And Sea Defences