



Friday, 28 June 2019

PLANNING COMMITTEE

A meeting of **Planning Committee** will be held on

Monday, 8 July 2019

commencing at **5.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Torquay TQ1 3DR

Members of the Committee

Councillor Pentney (Chairman)

Councillor Barrand

Councillor Brown

Councillor Dart

Councillor Dudley

Councillor Hill

Councillor Barbara Lewis

Councillor Manning

Councillor Jacqueline Thomas

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For information relating to this meeting or to request a copy in another format or language please contact:

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PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

(Pages 4 - 5)

To confirm as a correct record the Minutes of the Development Management Committee meeting held on Monday 8 April 2019 and the meeting of this Committee held on Monday 10 June 2019

3. **Disclosure of Interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda.

For reference: Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

For reference: Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(Please Note: If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

5. **Former Dairy Crest Depot, Parkfield Road, Torquay (P/2019/0283)**

(Pages 6 - 34)

Demolition of existing buildings and change of use of the land from industrial to provide up to 43 residential dwellings with parking.

6. **213 St Marychurch Road, Torquay (P/2018/0962)**

(Pages 35 - 55)

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

7. **The Coach House, Steartfield Road, Paignton (P/2019/0249)**

(Pages 56 - 64)

Erection of a detached building comprising two self-contained retirement apartments within the curtilage of The Coach House,

Stearfield Road, Paignton.

- 8. Lynwood, Jacks Lane, Torquay (P/2019/0277)** (Pages 65 - 78)
Change of use of Lynwood, Jacks Lane, Torquay, from a seven bedroom residential dwelling (use class C3) to a seven bedroom residential care institution (C2).
- 9. Land To Rear Of Broadway, Dartmouth Road, Brixham (P/2019/0420)** (Pages 79 - 88)
Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling within a site that has outline approval for up to ten dwellings.



Minutes of the Development Management Committee

8 April 2019

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Hill, Morey, Pentney and Tolchard

(Also in attendance: Councillor Brooks)

55. Apologies for absence

Apologies for absence were received from Councillors King and Manning.

It was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended for this meeting by including Councillor Hill instead of Councillor Lewis (B).

56. Minutes

The Minutes of the meeting of the Development Management Committee held on 11 March 2019 were confirmed as a correct record and signed by the Chairman.

57. 213 St Marychurch Road Torquay P/2018/0962

The Committee considered an application for the demolition of the existing building to form 17 apartments and parking.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's Website. At the meeting Mary Qiriaqi addressed the Committee against the application. In accordance with Standing Order B4.1 Councillor Brooks addressed the Committee.

Resolved:

That the application be deferred for further negotiations with the applicant with regard to the design, landscaping, materials, bin storage and roof space of the proposal.

58. Combe Pafford School Steps Lane Torquay P/2018/0996

The Committee considered an application for the formation of a synthetic sports pitch with associated fencing within the curtilage of Combe Pafford School.

Prior to the meeting written representations were available on the Council's Website.

Resolved:

Approved, subject to no objections being raised from the Council's Strategic Highways Team and the final drafting of conditions (including those set out in the submitted report) being delegated to the Assistant Director for Planning and Transport.

Chairman

Agenda Item 5

Application Number

P/2019/0283

Site Address

Former Dairy Crest Depot
Parkfield Road
Torquay
TQ1 4BH

Case Officer

Mr Scott Jones

Ward

Tormohun

Description

Outline application for the demolition of existing buildings and change of use of the land from industrial to provide up to 43 residential dwellings with parking, with detailed access, layout and scale (Matters of appearance and landscaping Reserved).

Executive Summary

The application site is the former Dairycrest milk depot site located between Lymington Road and Parkfield Road, around 1km north of Torquay Town Centre.

The site has sat unused for a number of years and is now an allocated housing site within the Torquay Neighbourhood Plan with an indicative yield of 40 units.

The application seeks outline planning permission for up to 43 apartments with detailed access, layout and scale. Appearance and landscaping are Reserved Matters for future consideration.

The proposal presents a single "L" shaped building between one and five storeys high with under-croft ground floor parking and a maximum of 4 floors of accommodation above. The indicative plans show 43 two-bed apartments within a modern, flat-roofed building.

A vehicular access is proposed off Parkfield Road in the location of the existing southernmost access point. A pedestrian access is proposed off Lymington Road.

The site is considered suitable for residential use and the key issues are whether the extent of development to deliver 43 units can be adequately provided with the necessary parking, amenity space and other necessary elements required for permanent residential occupancy within the site in an acceptable manner.

The proposal has been amended to respond to officer concerns about the delivery of adequate waste and cycle storage, waste collection, pedestrian access and parking layout feasibility. On the information now provided it is concluded that for

the purposes of an outline permission the indicative plans show an acceptable scheme that suggests that 43 units can be adequately delivered on the site.

The Affordable Housing policy within the Torbay Local Plan suggests that 9 units should be secured on-site and, subject to conclusions on the length of inactivity, a loss of employment obligation may be required. The applicant has submitted a viability assessment to show that it would be unviable to provide obligations. Members will be provided with an update at Committee regarding the conclusions of the independent assessment.

Recommendation

Approval: Subject to;

1. The receipt of a detailed drainage solution that is to the satisfaction of Officers;
2. Final drafting of conditions delegated to the Assistant Director of Planning and Transport, to include those listed within this report;
3. The completion of a S106 Legal Agreement in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document on terms acceptable to Officers, subject to an independent viability assessment of the scheme to test its ability to support obligations relating to affordable housing and the loss of an employment site (as appropriate.)

The resolution of any new 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 is a Major Outline Application and is required by the Council's constitution to be determined by the Planning Committee.

Statutory Determination Period

13 Weeks – 7th August 2019.

Site Details

The application site is a former milk depot that sits between Lymington Road and Parkfield Road, approximately 1km north of Torquay Town Centre, in an area that has a mixed commercial and residential character.

The site is approximately 0.5 hectares in size and is roughly rectangular in shape at 125m long with a predominate width of around 30-40m.

The site retains a number of buildings and structures from its former depot use, which sit amongst an extensively hard-covered site floor. Other than a tree group in the south-east corner of the site, vegetation is principally limited to emerging scrub growth amongst the hardstanding. There is a notable row of mature lime trees to the east along Lymington Road, but these fall outside the site and are set within the public highway. There is also a wooded bank on the opposite side of Parkfield Road. To the south lies commercial and residential buildings, and to the north there is a road junction, across which sit two residential properties.

In terms of levels the site is largely flat and is slightly lower than the adjacent streets. To the east the Lymington Road is generally between 0.5 and 1m higher than the adjacent site level and to the west Parkfield Road is between 1m-2.5m higher than the adjacent site level. In terms of access points there are two vehicular accesses, both off Parkfield Road.

In terms of designations, the site sits within a Critical Drainage Area and there is an identified linear flood risk area that follows the culverted waterway that flows from north to south towards the town centre and coast. The Torquay Neighbourhood Plan identifies the site for residential purposes and notes an approximate yield (number of units) of 40. In terms of nearby designations, the Grade 2 Listed Penny's Cottage sits to the north across a road junction, and the wooded bank on the opposite side of Parkfield Road sits as part of an Urban Landscape Protection Area and Local Wildlife Site within the Torbay Local Plan and Local Green Space within the Torquay Neighbourhood plan.

Date of Officer Site Visit: W/C 13th May 2019.

Detailed Proposals

This is an outline application for up to 43 residential units with access, layout and scale detailed within the application and matters of appearance and landscape reserved for future consideration.

Indicative plans regarding appearance and landscaping have been submitted alongside the detailed plans that seek to show that the site is capable of achieving up to 43 apartments in an acceptable form of development.

The proposal includes one vehicular access which is located on the western boundary off Parkfield Road in the southern corner of the site where there is an existing access into the site. The access shows a ramped descent into the site as per the existing arrangement, but with minor revisions to create a turning head facility. A dedicated pedestrian route aside this access has been added through the receipt of a revised layout plan. There is a further pedestrian access proposed with an entrance formed within the existing stone boundary wall that abuts

Lymington Road. This is proposed opposite the junction with Wright's Lane near to one of the mature Lime trees, approximately 22m south of the existing pedestrian crossing across Lymington Road.

In terms of layout the proposal presents a linear L-shaped apartment building that is set largely on the western half of the site towards Parkfield Road. The building is approximately 86m long and 10m deep with a return on its southern end that is 22m long. Parking is largely contained at ground floor under the building with further pockets of parking at the northern and southern end of the site. The western building line fronting Parkfield Road is approximately 6-7m from the edge of the site and the end building line of the return "L" is approximately 6m from the boundary with Lymington Road. The main flank of the building is between 27m and 15m from the boundary with Lymington Road.

Following the receipt of revised plans the layout shows the provision of 56 car parking spaces (down from 63), of which 42 are retained under the building. The reduction in parking is principally to accommodate additional waste and cycle storage facilities for future residents.

The eastern part of the site towards Lymington Road is largely communal landscaped grounds and a pond that forms part of the surface water retention and management proposals. The tree group in the south east corner is shown to be retained and forms part of the communal grounds.

The third detailed element under consideration (after access and layout) is scale. The submitted drawings show a building with multiple floors and heights ranging from single-storey up to a maximum of 5 floors (4 habitable floors with ground floor parking and services underneath). This presents a maximum building height of 13m above the site level, which gives an upper building height of 50.63m above datum, which is approximately 0.8m below the eaves height of the adjacent residential building to the south off Parkfield Road.

There is also supporting information on appearance and landscaping although as these matters are reserved this information is hence only indicative at this stage. What is shown is a modern building, largely rendered, with inset balconies and roof gardens, with gradual increases in floor numbers at either end of the L shaped building up to the uppermost scale.

The application is also supported by a flood risk assessment and drainage strategy, geotechnical information, transportation, ecology and tree protection detail. A viability assessment has been submitted that seeks to illustrate that the proposed development would not be viable if it were to provide any affordable housing. This information also refers to CIL exemption on viability grounds.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

The site is an allocated housing site in the Torquay Neighbourhood Plan and its redevelopment for homes is supported in principle.

The specific design of the development has some issues of potential non-compliance with the Neighbourhood Plan policies.

Appendix F of the Local Plan specifies 2 parking spaces per unit*, the proposal appears to have 1 per unit on the ground floor but the application form appears to state there are 61 in total.

The design of the proposal appears non complaint with TNP Policy TH8 (certainly its height, and probably scale and bulk; and it is questionable that it reflects the identity of its surroundings)

The outside space allowance is also questioned - it is not possible to determine whether it complies with the TNP Policy.

**Officer comment: Members should note Appendix F of the Torbay Local Plan cites an expected provision of 1 space per apartment (and that parking for visitors should also be provided for).*

Torbay Development Agency:

The TDA Economy Investment & Enterprise team object to the change of use of the site to residential accommodation as it will further reduce much needed employment land for growth and job creation. Specifically it is cited that the change of use to this site will result in the loss of 34 new jobs.

Currently Torbay has demand for over 500,000 sq ft of employment space. The loss of further employment land reduces the availability of suitable sites stifling growth, inward investment and job creation. Torbay has the lowest productivity rates across the Heart of South West (HotSW) Local Enterprise Partnership area and the 9th lowest across the whole of the UK. The HotSW LEP has set out a very strong challenge to double the size of the economy by 2038.

Also concerned that if granted this change of use will set a precedent for other sites in close proximity.

Given the economic growth challenges facing Torbay the Council must look to protect existing employment land otherwise we risk losing our growing companies and potential inward investors to other areas, perhaps resulting in loss of jobs.

In the event this planning application is granted that in line with the adopted Planning Contributions and Affordable Housing SPD, under section 3.16 Loss of

Employment, we would seek a commuted sum of £272,000 to invest in bringing forward alternative employment space as per the table set out below.

Strategic Planning:

It is noted that the TDA are concerned about the loss of employment space. However, the Dairy Crest site is allocated for housing in Policy TH1 (site NP3) of the Approved Torquay Neighbourhood Plan and the application should be determined in accordance with the Plan unless material considerations indicate otherwise. The Neighbourhood Forum specifically excluded the Dairy Crest site from Employment Policy TJ1, so must have taken the conscious decision that the loss of employment space was outweighed by the benefits of residential development.

Agree that employment contributions are in principle liable from the site- as per the final paragraph of Local Plan Policy SS5. In reaching a balanced view it is necessary to clarify how long the site has been vacant as this may have an effect on the justification for a loss of employment contribution.

If the site have been lawfully used for 6 months within the last 36 (i.e. the current floorspace would be mitigated in the CIL liability equation) then it is reasonable to seek a loss of employment obligation. If the site has not been used within the last 36 months (i.e. the proposed floorspace will be fully liable for CIL) it would not be reasonable to seek a loss of employment obligation.

Paragraph 3.16.3 of the SPD indicates that loss of employment contributions will be given the highest priority after site deliverability and affordable housing.

Should the site be found to have been in use if viable a loss of employment obligation of £158,857.00 should be secured.

Planning and Public Health Officer:

Satisfied that the accommodation on offer will provide a living environment that will be supportive of good health and wellbeing. Note that the proximity of Lymington road to the site may create noise pollution issues and therefore there may require additional acoustic engineering to meet suitable noise level requirements.

It is welcomed that 'individual house packs' will be created in respect of providing links and information for healthy lifestyle guidance and local facilities, etc. It is the view of Public Health that a reasonable approach in this respect would be to integrate this with a strategy for modal shift provided as part of a travel plan for the development, which is also a requirement.

It is noted that as part of the application, no affordable housing or CIL contribution is being proposed by the applicant. This weighs heavily as a lost opportunity and

potential negative impact on health and wellbeing arising from the development. In particular, the provision of affordable housing has been shown to play an important role in contributing to a healthy society, particularly through improved social outcomes and quality of life (Spatial Planning for Health: An Evidence Resource, Public Health England, 2017).

Housing:

The Council's Affordable Housing and Planning Contribution Policy requires 20% affordable housing to be provided on site which should be proportionate to the mix as a whole. This would equate to 9 of the 43 units being Affordable Housing.

Currently the scheme is planning 0% and so no affordable housing provision. To date there appears insufficient evidence to justify why this scheme is unable to provide the affordable housing policy requirement and so as it currently stands we would be unable to support this application. As and when the findings of the independent viability report are received, we would consider this on its merit.

Drainage Engineer:

The developer has submitted a detailed flood risk assessment and outline drainage strategy which identifies that infiltration drainage is not feasible for this site and therefore surface water will be drained using a controlled discharge to the combined sewers system.

The discharge rate quoted of 1.5l/sec complies with the requirements of the Torbay Critical Drainage Area.

However the drawings submitted omits information and it is not possible to check the hydraulic modelling that has been submitted.

Before planning permission is granted additional information should be submitted to show that the risk of flooding would not be increased by the development.

South West Water:

No comment offered.

Environment Agency:

The development will be acceptable provided that a condition regarding existing ground levels is included within any permission granted. The suggested wording for our recommended condition is set out below.

The development hereby permitted must not be commenced until such time as the applicant has submitted evidence to demonstrate that there will be no land raising,

to, and approved in writing by, the local planning authority (to ensure that there are no detrimental impacts to flood storage or flood flow routes).

Strategic Planning / Transport, incorporating the views of the Local Highway Authority:

Initial points raised include that Lymington Road is a district Distributor Road and improved pedestrian access and footways are needed, that Parkfield Road would benefit from improved pedestrian footway along the frontage, main vehicular access should have a designated footway.

Concluded that the applicant should provide modifications to the pedestrian access, frontage and main access with highways solution in order to serve the quantum of development proposed.

In addition internal layout, access roads and car parking should be improved with a layout that provides a suitable collection of waste. The development will need to secure appropriate levels of parking (minimum 1 parking space per flat /apartment with visitor Parking, disabled provision (10%) and 2, secure and covered cycle spaces) (of adequate minimum dimensions) and electrical vehicle charging points. And any detailed scheme will need to be accompanied by a proportionate Travel Plan to enable 30% of residents and visitors to modal shift to foot, cycle and public transport.

Following the receipt of the revised layout the issues it has been confirmed that the key issues have been largely resolved and on balance the proposal presents an acceptable vehicular and pedestrian access and movement.

Historic England:

On the basis of the information available to date they do not wish to offer any comments and suggest that the views of your specialist conservation and archaeological advisers are sought.

Interim conservation advice:

Accounting for the advice contained within Historic England's 'The Setting of Heritage Assets - Historic Environment Good Practice Advice in Planning Note 3 (Second Edition) and the statutory obligation on decision-makers to have special regard to the desirability of preserving listed buildings and their settings, in summary the proposed building is suitably well designed in a manner which respects the setting of the listed building. In terms of the impact upon the setting of the building I would regard this to be positive overall.

Community Safety Team:

Measures to limit impact of construction should be secured. Recommendations

regarding dealing with existing contamination should be followed.

Natural Environment Services / Arboricultural Officer:

No comment offered.

Police Designing Out Crime Officer:

There is no reference to designing out crime or crime prevention per se, as such there is no way of knowing if these have been considered or where implemented for the proposed scheme.

In moving to a detailed proposal the applicant should consider Secured by Design (SBD), 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.

Places should be well defined and well lit. Parking should be overlooked, especially if the site is proposed to be 'open'. Cycle parking should be safe.

It is essential that the proposed parking provision for the scheme is considered sufficient when balanced against the accommodation schedule and the lack of alternative off-site parking. This is advised as even a one bedroom apartment could attract a minimum of 2 vehicles.

Summary Of Representations

Publication type: Neighbour notification letters, site notice and newspaper advertisement.

8 representations have been received (5 objections), which includes an objection from the Torre and Upton Community Partnership.

Torbay and South Devon NHS Foundation Trust object on grounds of capacity and increased pressure to deliver services and seek a contribution of £38,040.00.

Key issues raised:

Supportive comments:

- Principle is good
- Good use of a brownfield site
- It provides houses
- It removes an eyesore
- Improves highway matters

Concerns / objections:

Too many units
Too high
Traffic increase and added congestion
Design not in keeping
Overdeveloped and cramped
Increase parking pressures for existing occupiers nearby
Not the right sort of units (family units needed)
No affordable housing
Potential ecological impact on Stantaway Hill, especially through lighting.
Loss of privacy across Lymington Road due to height
Impact on a listed building

Relevant Planning History

None.

Key Issues/Material Considerations

Principle of residential use

Policy H1 (Applications for new homes) of the Torbay Local Plan cites that proposals for new homes within the built up area will be supported subject to accordance with the other policies contained within the Local Plan. The site sits in the built up area.

Policy TS4 (Support for Brownfield and Greenfield development) of the Torquay Neighbourhood Plan cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan.

Specific to this site the Torquay Neighbourhood Plan has identified the land as one of 5 additional sites allocated for housing within Torquay (beyond the allocation drawn from the Torbay Local Plan's pool of identified sites). The site reference is NP3 and the estimated capacity is 40 units.

For the policy reasons above the principle of housing development is considered acceptable as the use is aligned with a number of relevant strategic and housing policies, which supports a sustainable pattern of housing provision with an emphasis upon the regeneration of brownfield sites, town centre sites and urban sites such as this one.

Access and highway safety

Policy TA2 of the Torbay Local Plan states that all development 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.

For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided.

The Torquay Neighbourhood Plan is largely silent on access and highway matters beyond guiding that, to encourage use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate (Policy THW5)

The proposed vehicular access off Parkfield Road replicates the existing vehicular access and is considered acceptable in terms of highway safety for vehicles entering and exiting the site and other highway uses. In terms of pedestrian movement amendments to the ramped access to include a designated pedestrian route has overcome an officer concern regarding safe access and egress on foot. The main access is now considered suitable for both vehicles and pedestrians.

Around the site the connectivity to public footways will be unacceptable in places and this will require improvements. Firstly, pedestrians using the main vehicular entrance will encounter a section of road with no immediate footpath. A dropped crossing across to the public footpath that sits on the western side of Parkfield Road should be secured to permit adequate movement for all pedestrians across to the footpath network. This can be secured via a condition and highway agreement. As there are intermittent sections of footway along the border of the site heading north towards Penny's Cottage the creation of a continuous footway was suggested in terms of securing some broader benefit. The potential for an additional pedestrian access point close at the northern end of Parkfield Road is a separate matter that would improve access to a safe footway network, potentially with another dropped crossing. In regard to the proposed pedestrian access on the eastern side of the site on to Lymington Road the concept is a positive one in terms of permeability. To respond to officer concerns regarding the challenges facing pedestrians due to mature street trees the access point has been moved north to secure unencumbered access to the pedestrian crossing in the area. In the context this is considered sufficient in terms of pedestrian movement options.

The Council's transport officer has confirmed that following the receipt of the revised layout the previous concerns have been largely addressed and the proposal presents an acceptable vehicular and pedestrian access and movement and should not be refused on highway grounds.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is, following submission of the revised layout plan, considered acceptable on highway and movements grounds and in accordance with the Policy TA2 of the Torbay Local Plan, The Torquay Neighbourhood Plan and the NPPF.

Parking

Policy TA3 and Appendix F of the Torbay Local Plan provides the policy context regarding parking provision for development and provides estimated requirements for parking that reflect a balance between ensuring that the levels of car parking generated by development are met on site, with the need to ensure that due consideration is also given to sustainable transport methods.

Appendix F identifies an expected requirement of 1 car parking space per apartment and also notes that parking for visitors should also be provided. There is no guidance on what levels of visitor parking should be provided though. The guidance notes also state that 20% of available spaces should have electric charging points, and that 10% should be suitable for disabled users.

Policy TH9 of the Torquay Neighbourhood Plan cites that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

The application was submitted with the detailed layout showing 63 proposed parking spaces for 43 apartments that provided 20 spaces beyond the 1:1 ratio expected in policy and more than adequate visitor / surplus parking (where visitor parking which is also expected in policy). Revised plans have been received that reduce the parking numbers to 56, principally in order to address separate concerns on the lack of adequate cycle and waste stores, collection facilities, and manoeuvring space. The scheme now presents 1:1 parking plus 13 visitor/surplus spaces within a revised and “workable” layout. Although reduced the scheme is still considered policy compliant in terms of parking numbers with more than adequate capacity to serve the development in-light of the Policy TA3 and Appendix F of the Torbay Local Plan.

To ensure that other forms of transport are duly promoted the travel plan should be conditioned with ongoing management to review and improve if the modal shift targets are not being reached.

In addition the proposal should secure disabled and electric parking that accords with the policy position cited above. This expectation can be secured by use of a planning condition, as the current layout present opportunity to provide wider disabled parking.

Beyond the issue of vehicular parking the development should also secure appropriate facilities to promote cycle ownership and use. The Development Plan seeks new apartments to secure 1:1 cycle parking, which should be fully secure and usable, along with visitor cycle facilities. The revised layout responds to officer

concerns on the lack of provision of adequate facilities with seven separate cycle stores spread through the development within the undercroft.

Subject to securing 10% disabled parking, electric charging for 20% of spaces, and visitor cycle parking, by condition, the proposal is considered to provide development that accords with Policy TA3 and Appendix F of the Torbay Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

Drainage and flood risk

The application site sits within the wider Torbay Critical Drainage Area (CDA) as designated by the Environment Agency and hence a rigorous surface water disposal strategy is required in order to ensure that this brownfield site achieves reduced rates of surface water runoff. There is also a linear flood risk area to the south of the proposed building that loosely follows the valley floor down Teignmouth and Lymington Road towards the coast to the south.

The design concept responds to the results of the infiltration testing which limits the use of soakaways to serve the development and proposes a controlled discharge to the Public Sewer via a drainage pond.

The Council's Drainage Engineer has reviewed the initial flood risk assessment and drainage strategy and although the principles are supported there is concern that certain detailed design elements are not adequately referenced. Subject to the additional detail being submitted, which should be secured prior to the grant of any permission to ensure that the risk of flooding is not increased, the drainage management regime is considered acceptable to the Council's Drainage Engineer. The Environment Agency do not object subject to a condition to secure development that does not alter the ground levels.

As additional information has been requested Members will be updated about this matter during the Committee meeting.

Subject to the receipt of acceptable detail the proposal is acceptable on flood risk and surface water drainage grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

Visual impact (including the impact upon the setting of the nearby Listed Building)

Policy DE1 (Design) of the Torbay Local Plan cites that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE4 (Building Heights) cites that the height of new buildings should be appropriate to the location and that they should be built to the prevailing building height unless there are sound socio-economic benefits to justify a deviation.

Policy TH8 (Established architecture) of the Torquay Neighbourhood Plan cites that development should be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

The NPPF guides that decisions (amongst other things) should secure developments that function well, are visually attractive, and are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities)(Para 127).

The application seeks detailed approval for its layout and scale, however, indicative details about the proposal's appearance and landscaping are also provided, although these matters will be considered within a subsequent Reserved Matters application should outline planning permission be granted.

In terms of the detailed layout, the proposal is for a generally linear building that is approximately 86m long and 10m deep, with a return on the southern end being 22m long. The scale (and thus height) is also detailed and the submitted drawings show a building with multiple floors and heights ranging from one storey up to five storeys above ground level (4 habitable floors with ground floor parking and services underneath). The proposal would have a maximum height of 13m above the site level, which gives a building height of 50.63m above ordnance datum.

In terms of visual impact, the plot is considered to be capable of accommodating a building of the scale proposed, without resulting in an over-development of the site. The building would be set well within the site's boundaries, would not dominate or cramp the adjacent streets, and would provide an adequate level of parking, manoeuvring, and open space to serve the development. Although landscaping is reserved for future consideration, the details provided indicate that the proposal is capable of providing sufficient green space within the plot. The submitted details show that the plot could provide a generous amount of open space around the building, in the form of hardstanding areas and green space, which would serve to visually soften the proposal, and ensure a transition between it and the surrounding development. As part of a reserved matters application, officers would negotiate the details of the proposed landscaping scheme, including the possible introduction of additional planting to the rear of the building.

In terms of its scale, the proposal presents a varied building height up to a maximum of five storeys (13m from ground level, 50.63m AOD). As the plot is surrounded by roads on three sides, the most immediate reference for a contextual building height is a neighbouring residential development on Parkfield Road. This presents 3-storey development immediately adjacent to the public highway which rises to a ridge height of 51.43m AOD. Although the proposal presents more storeys than the adjacent building (and prevailing character) the height does respect the building height of the Parkfield Road streetscene in terms of its ultimate

height, being actually 0.8m lower than the ridge height of the aforementioned property. Moreover, the setting of the site is dominated by the significant mass of the embankment located almost immediately to the west. The embankment, which contributes to the character of the area as much as any building, would dwarf the proposed structure. It is also noted that, to the east of the site, hillside terracing serves to present a cluster of development up the hill side, which presents a degree of visual coalescence.

As the building height is similar to the adjacent building, and given the unique context of this site alongside a significant landform to the west, and extensive development to the east, the number of floors is not considered unacceptable in this location. That said, when considering the scale of the proposal, it is necessary to also take account of its overall size. The proposal would result in an individually larger building than is generally present in the immediate locality and it is noted that the Neighbourhood Forum has raised concerns in terms of the proposal's scale and height in the context of the prevailing character.

As outlined above, the building is actually similar in height to the nearest existing building and there are aspirations within the Neighbourhood Plan to support brownfield development where there are no significant adverse impacts. The Torquay Neighbourhood Plan indicates that the site could support a scheme of around 40 units; the proposal is for 43 units, none of which are particularly large internally, and it is therefore clear that, to achieve the quantum of development indicated and make efficient use of a brownfield site, a flatted development along the lines proposed is both necessary and appropriate, particularly when taking account of the need to provide adequate parking, services, and open space. It is also noted that the area has a mixed character; that the backdrop to the site comprises a large landform, which is significantly greater in scale than the proposal would be; and that the site is currently in a disused and unsightly condition, and would be improved by the proposal.

On balance, the proposal is not considered to present significant adverse impacts because of its scale, and its overall size is considered both appropriate and necessary to achieve Development Plan objectives for the site.

In terms of appearance, the indicative plans present a modern building with a linear, or horizontally orientated, façade comprising a mix of render and glass, with multiple balconies and roof terraces. Officers consider that more work is needed to ensure that the appearance of the proposal, in terms of its facades, would better integrate with the locality, adopting more of a vertical emphasis to reflect the patterns of existing development in the area. As appearance will be considered within a subsequent Reserved Matters application, if outline planning permission is granted, this present concern is not considered a reason to refuse planning permission. Officers are satisfied that an acceptable appearance can be achieved in this case.

In regard to heritage assets, there is a requirement to pay special attention to the desirability of preserving or enhancing the setting of listed buildings, and in terms of this development Penny's Cottage, a listed building, sits to the north across the road junction. Having considered the interim conservation advice it is concluded that the proposed scheme represents the opportunity to enhance the view along Lymington Road towards Penny's Cottage and better respect the wider setting of the listed building by removing a hard industrial urban landscape with a more softer landscaped setting which better reflects the historic setting the cottage, which would have been essentially a rural cottage on the periphery of the town. Similarly the experience of the setting should also be enhanced by the scheme by the removal of the existing industrial character of the site. In terms of the impact upon the setting of the building it is hence considered to be positive one overall, and there would be no harm to heritage assets.

The layout and scale proposed is, for the reasons above, considered acceptable. The indicative appearance is, for the reasons above, a matter of concern however as this element is reserved for future consideration it is not considered a reason to refuse the application, certainly as there appears scope to revise the architectural treatment in order to better reflect the character of the area within the parameters of the layout and scale that is supported. The indicative landscaping is, for the reasons given above, considered acceptable in principle and provides a basis to resolve a satisfactory reserved matters detail.

In terms of design for these reasons above the development is considered acceptable as there would be no adverse impact upon the character or visual amenities of the locality. The proposal is considered to be in accordance with Policies DE1, DE4, SS10 and H1 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and guidance contained within the NPPF.

Quality of the residential environment

Policy DE3 of the Torbay Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. This includes expectations in terms of internal and external spaces, and for habitable spaces to be provided with adequate outlooks and privacy. The Torquay Neighbourhood Plan is largely silent on accommodation requirements but it does cover expectations for outdoor space and balconies.

Whilst the proposal only seeks consent for the proposed access, layout and scale the submitted information does include an indication of the proposed residential environment and should provide adequate comfort that a good standard of residential environment for future occupiers can be achieved.

The layout plans show a generic division of apartments throughout the various floors. Each apartment generally accords and exceeds the size standards outlined within the Torbay Local Plan where Policy DE3 indicates a space standard for 2-

bed (3 person) flats of 61sqm. The plans generally show 2-bed units at around 57-63sqm which will provide a good standard of internal accommodation in terms of the size of apartments.

In terms of outlook and natural lighting the layout of the building will provide all apartments with an acceptable level of outlook and lighting to key rooms as all elevations have suitably open aspects. The revised layout secures a landscaped outlook to both ground floor units following officer concern on the apartment to the north looking over hardstand that could be informally used for parking beside windows.

Policy DE3 identifies that development should make provision for external amenity space where possible and as a guideline suggests that a minimum of 10sqm will be sought for apartments, which is comparable to the expectation for space within the Torquay Neighbourhood Plan Policy TWH4. There is a design expectation that a number of apartments will benefit from a balcony, which will provide some form of external amenity space for occupants. In addition there are a number of roof terraces, which will also provide improved amenity space for occupiers. It is unclear what size of balcony could be adequately achieved within a finely resolved design however the provision, within an urban site, together with the potential for some good quality communal space at ground floor together with roof terraces, is likely to present a satisfactory provision of amenity space for occupants. The layout demonstrates that outdoor amenity space above the policy expected level of around 430sqm could be achieved.

In terms of supportive facilities following the receipt of revised plans the layout is now details adequate cycle and waste storage facilities. Although the appearance will be resolved at Reserved Matters stage the submission currently secures a layout that shows that sufficient storage space will be provided.

All matters considered the proposal is considered to provide adequate certainty that a good standard of residential accommodation can be achieved and thus the development is considered to accord with the aspirations of Policy DE3 of the Torbay Local Plan, Policy TWH4 of the Torquay Neighbourhood Plan, and guidance contained within the NPPF.

Impact upon local residential amenity

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Torquay Neighbourhood Plan is silent on the matter of amenity.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction parking impacts through the use of a planning condition.

In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance. The move from a commercial use to residential is likely to be positive as although the site lies empty a future commercial use could create noise and disturbance.

In terms of scale and height there is unlikely to be any loss of outlook or light to the north and east as adjacent residential properties are set some distance away across relatively wide public roads. The sensitivity is further reduced by the expectation of a staggered building height where the building will be lower towards the edge of the plot in these directions. To the south the existing residential building off Parkfield Road is set 30m away which is considered an acceptable separation towards this secondary elevation. To the west there is no development to consider.

In terms of privacy, inter-looking and overlooking although there is no definitive guidance within the Development Plan it is generally accepted that a distance of 20/21m back-to-back between properties is acceptable, but that it may be necessary for greater separation distances for taller buildings or for development on sloping land. The building will be over 45m from Penny's Cottage to the North, around 32-35m from the properties across Lymington Road to the east, and 30m from the residential building to the south off Parkfield Road. When considering the distances involved, and taking into account the topography, the relationships to the south are considered acceptable in terms of the impact of the development upon existing occupiers.

In terms of amenity for the reasons above the proposal is considered to comply with Policy DE3 of the Torbay Local Plan as it would not unduly impact the amenities afforded neighbouring occupiers.

Biodiversity and Trees

Biodiversity

Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

The site has limited value in terms of flora and fauna with notable vegetation limited to a group of trees near to the southern border of the site. Due to the extent of hardstand and buildings there appears limited habitat valuable to protected or other species beyond this tree group. The tree group is shown to be retained by any forthcoming development.

The accompanying ecology information cites precautionary measures re working

within the nesting season. This should be secured by condition. It also cites the limitation of external lighting facing towards the tree-lined bank across Parkfield Road. This again can be secured by condition.

In addition to the management of ecology impacts in-line with Policy NC1 measures to enhance biodiversity should be duly considered and it is noted that the submitted ecology report is absent of commentary on biodiversity enhancement measures. In light of this it is recommended that any grant of planning permission is subject to a condition requiring a biodiversity statement to be submitted to and approved in writing by the Local Planning Authority, to ensure that biodiversity interests are promoted through the development, which shall include any physical measures to enhance biodiversity such as providing bat and bird boxes to enhance roosting and nesting facilities.

With a condition as prescribed above the proposal is considered aligned with Policy NC1 of the Torbay Local Plan and the NPPF.

Impact upon Trees

Policy C4 of the Torbay Local Plan cites that development will not be supported when it would seriously harm either directly or indirectly, protected or veteran trees, subject to offsetting measures etc.

There are no formally protected trees on or adjacent to the site however there is a notable tree group in the southern part of the site and there are notable limes within the public highway along the eastern border.

The application is supported an arboricultural assessment that establishes tree protection measures to guard against potential harm during the construction phase. These measures can be secured by a planning condition.

In terms of the development itself the layout indicates a building footprint that does not encroach within the demarked root or canopy spread. Where the building comes closest to one of the protected limes the building is shown to be only single storey, which limits any potential spatial tension that may be caused by a higher building that would physically be closer to the canopy of this tree.

The Council's Natural Environment Services Team have declined to comment on the proposals but the detail appears reasonable in terms of protecting the long-term integrity of trees in and around the site.

In light of the conclusions above the development is considered comfortably aligned with the aims and objectives of Policy C4 of the Torbay Local Plan and guidance contained within the NPPF.

As landscaping is a reserved matter a detailed landscape scheme will need to be

submitted to the Local Planning Authority via a further Reserved Matters application, should the development progress.

Housing Supply

The Council has a housing supply which is below the 5 year supply sought by government. The proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan.

Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

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.

S106/CIL and Affordable Housing -

CIL:

The application is for residential development in Zone 1 where the Community Infrastructure Levy (CIL) is £30 per square metre of additional gross internal floor area created.

The CIL liability for this development is £30 per square metre. The amount will be determined at Reserved Matters stage where the application will be CIL liable.

Based on the outline floor area indicated within the submitted CIL form, the estimated CIL charge would be in the region of £88,000.

An informative will be used, should outline permission be granted, to advise the applicant/developer of their obligations in relation to the CIL Regulations.

S106:

Affordable Housing:

Policy H2 of the Torbay Local Plan identifies that as a brownfield site with a scheme of over 20 dwellings 20% affordable housing, usually provided on site, should be provided. For a scheme of 43 dwellings this equates to an affordable housing provision of 9 units in order to provide a policy compliant development.

The applicant has submitted a viability assessment that concludes that it is not viable to deliver any affordable housing. The submitted assessment is currently being independently assessed and Members will be updated on this issue.

The concept of viability is detailed within the Council's Adopted Affordable Housing Supplementary Planning Document (SPD) and hence, if it is concluded that the scheme can afford to deliver Affordable Housing, Members are advised that provision should be secured via a S106 Legal Agreement. Should it be concluded that the development cannot support the delivery of Affordable Housing then this should be accepted subject to a S106 Legal Agreement that includes a deferred obligations clause in-line with the Adopted SPD.

Loss of Employment Land:

The applicant has stated that the site has recently been in use within the submitted CIL information, however it does appear to have been disused for a number of years. If it is shown to have been disused for some time, it is not considered reasonable to seek loss of employment obligations. However if it is found that the site has been within use then, if viable (after delivering the policy compliant level of Affordable Housing), it will be necessary to secure financial mitigation to bring forward a commercial site elsewhere.

In-line with Local Plan Policy SS5 if the site have been lawfully used for 6 months within the last 36 (i.e. the current floorspace would be mitigated in the CIL liability equation) then it is reasonable to seek a loss of employment obligation. Paragraph 3.16.3 of the SPD indicates that loss of employment contributions will be given the highest priority after site deliverability and affordable housing. Should the site be found to have been in use if viable a loss of employment obligation of £158,857.00 should be secured.

Highway works:

In this instance the Highway Authority has raised concern over the additional pedestrian traffic in the immediate area and has cited that crossing improvements

should be secured. These works can be secured via a planning condition attached to any grant of approval to enter into a S278 highway agreement.

Other matters:

The local NHS trust has submitted a representation seeking a financial payment to mitigate the impact upon the health service provision. As the development is CIL liable, S106 obligations can only be sought on site acceptability matters and this does not apply to general provision of health care. There is no provision within the Development Plan to seek health-care based payments in relation to non-specialist housing (i.e. where appropriate payments may be sought for specialist housing, such as sheltered housing, due to the potential for an additional burden on adult healthcare over standard types of housing). For these reasons it is not considered reasonable to seek the financial contribution requested by the NHS trust.

Subject to the points above the development is in accordance with Policies SS5, SS6, SS7, SS9, SS11 and H2 of the Local Plan and the Planning Contribution and Affordable Housing SPD.

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:

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC and a formal HRA screening is not necessary in this instance as the proposed development is unlikely to have a significant effect on the South Hams SAC.

The proposal presents a controlled discharge that mimics greenfield runoff rates into the Public Sewer, which will minimise impacts upon outfall flows and any potential impact up the marine candidate SAC, in-line with Policy ER2.

Proactive Working

In accordance with the National Planning Policy Framework the Council has worked in a positive and pro-active way and the applicant has responded on matters of access, parking, cycle and waste storage, and drainage.

Conclusions

The proposal is considered a good use of a redundant brownfield site and would

provide much needed housing to help meet local need.

The proposals are considered to be in overriding accordance with the provisions of the Development Plan and the NPPF guides that development proposals that accord with an up-to-date development plan should be approved without delay.

The Torquay Neighbourhood Plan cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan (Policy TS4 - Support for Brownfield and Greenfield development). There are deemed to be no significant adverse impacts, as outlined within this report.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh against the proposal, the Officer recommendation is one of approval, subject to resolving matters of drainage, conditions as necessary, and securing a S106 Legal Agreement on terms as necessary following the outcome of the independent viability assessment.

Conditions to include:

Standard time condition:

That in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

Reserved Matters condition

An application for the following reserved matters shall be submitted to the Local Planning Authority for its approval in writing:

- (i) appearance; and
- (ii) landscaping.

The details of the Reserved Matters shall be consistent with the details submitted and approved pursuant to the outline consent.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

Flood risk

The development hereby permitted shall not be commenced until such time as the applicant has submitted evidence to demonstrate that there will be no land raising, to, and approved in writing by, the local planning authority.

The scheme shall be fully implemented and subsequently maintained, in accordance with the scheme's timing/phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure that there are no detrimental impacts to flood storage or flood flow routes, in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the NPPF.

Tree protection measures

Prior to the commencement of development all tree protection measures, as outlined within the Tree Protection Plan dated 20.03.2019 (Aspect Tree Consultancy), shall be implemented in full and maintained as such for the duration of the construction phase. The tree protection measures shall include a detailed arboricultural method statement submitted to and approved in writing by the Local Planning Authority for the 'Special Protection Area' (AMS).

Reason: To ensure due protection is afforded retained ecological features, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012-2030.

Parking

The Reserved Matters shall include the provision of parking for the occupants of the building in accordance with the layout hereby approved.

10% of the spaces shall be designed to the disabled parking specification and 20% of the spaces shall be provided with electrical charging points.

The approved parking facilities shall be completed in full prior to the first occupation of the development and maintained for such purposes at all times thereafter.

Reason: To ensure adequate parking is provided to serve the development in order to provide an acceptable form of development, protect neighbour amenity and highway safety, in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Cycle parking

The Reserved Matters shall include the detailed provision of covered, safe and secure cycle parking in accordance with the layout hereby approved, to a ratio of no less than one per residential unit, and shall include a detailed design of any proposed storage mechanism (such as racks or hoops). The proposal shall also provide for adequate additional secure visitor cycle facilities.

The approved cycle parking facilities shall be completed in full prior to the first occupation of the development and maintained for such purposes at all times thereafter.

Reason: To provide an acceptable form of development that duly promotes and provides for cycle ownership and use, in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030.

Waste storage

The Reserved Matters shall include the provision of waste storage and collection facilities in accordance with the approved layout.

The approved waste facilities shall be provided in full prior to the first occupation of the development and maintained as such at all times thereafter.

Reason: To secure a satisfactory form of development in accordance with Policies W1 and DE1 of the Torbay Local Plan 2012-2030.

Waste collection

The development shall proceed in accordance with the approved Waste Statement and Audit. Prior to the first occupation of the development management arrangements to secure the weekly movement of bins from and to the bin stores to facilitate the collection requirement of the local authority.

Reason: To secure adequate waste collection arrangements in accordance with Policy W1 of the Torbay Local Plan.

Nesting season

Demolition and any vegetation removal required as part of the development should be undertaken outside of the bird nesting season (March to September inclusive) or under the supervision of a suitably qualified and licenced ecologist.

Reason: To ensure due consideration is afforded protected species, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

Highway agreement

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure improved crossing facilities for pedestrians across Parkfield Road.

Reason: To ensure highway safety is not impaired, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Construction method statement

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

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

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

External lighting

Prior to the first occupation of the development, an external lighting scheme for the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details and shall be retained as such thereafter.

The proposed lighting scheme shall accord with the recommendations contained within the submitted Preliminary Ecological Appraisal Dated June 2018 (Abbas Ecology) in regard to foraging bat mitigation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, DE1 and DE3 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF.

Biodiversity enhancement measures

The Reserved Matters pursuant to Condition 01 shall include appropriate biodiversity enhancement measures.

The approved measures shall be implemented in full prior to the first occupation of the development and maintained in full at all times thereafter.

Reason: To secure an appropriate form of development in accordance with Policies NC1 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF.

Contamination

The development shall proceed in full accordance with the Contamination Remedial Measures as outlined within the submitted and approved geotechnical summary dated 7th March 2019 (A. Robin Hood & Associates).

Reason: To minimise contamination risks to future users of the site and surrounding land, including controlled waters, and to ensure the development can be carried out safely in accordance with Policy ER3 of the Adopted Torbay Local Plan 2012-2030, and guidance contained within the NPPF.

Surface water management

The development shall proceed fully in accordance with the approved surface water drainage strategy and detail, which shall be provided in full prior to the first use of the development and maintained at all times thereafter, unless otherwise submitted to and agreed in writing by the Local Planning Authority.

Reason: To secure an appropriate form of development that does not increase the risk of flooding to residents or land or buildings adjacent, in accordance with Policies ER1 and ER2 of the Torbay Local Plan 2012- 2030 and the Environment Agency Critical Drainage Area Advice Note dated May 2015.

Travel plan

The submitted Travel Plan shall be implemented in full. Should the annual review show that the development is failing to secure a modal shift of 30% of potential users to sustainable modes of travel, additional measures, in discussion with the Local Planning Authority, shall be agreed and implemented.

Reason: To reduce the impact of the development upon the transport network, in accordance with Policy TA2 of the Torbay Local Plan 2012-2030.

LEMP

Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Description and evaluation of features to be managed, which shall include the roof terraces where they are a communal facility.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Reason: In the interests of the amenities of the area and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030, and the NPPF.

Landscape implementation

All planting, seeding or turfing comprised in the approved details of landscaping Reserved Matters shall be carried out in the first planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 5 years from

the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay

SS3 - Presumption in favour of sustainable dev

SS8 - Natural Environment

SS11 - Sustainable Communities Strategy

SS12 - Housing

SS13 - Five Year Housing Land Supply

SDT1 - Torquay

TA1 - Transport and accessibility

TA2 - Development access

TA3 - Parking requirements

C4 - Trees, hedgerows and natural landscape

H1LFS - Applications for new homes_

H2LFS - Affordable Housing_

DE1 - Design

DE3 - Development Amenity

ER1 - Flood Risk

ER2 - Water Management

W1 - Waste management facilities

TS1 – Sustainable Development

TS4 - Support for Brownfield and Greenfield development

TH1 - Housing Allocations

TH8 - Established architecture

TH9 - Parking facilities

TE4 - Green Corridors

TE5 - Protected species habitats and biodiversity

THW4: Outside space provision

THW5: Access to sustainable transport

THW6: Cycle storage and changing facilities

TTR2 - Sustainable Communities

Application Number

P/2018/0962

Site Address

213 St Marychurch Road
Torquay
TQ1 3JT

Case Officer

Mr Alexis Moran

Ward

St Marychurch

Description

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

Update Report

At the 10th June Planning Committee meeting, Members of the Planning Committee resolved to defer this application, in order for them to undertake a site visit. No changes to the scheme are proposed.

Update Report

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

Consultations

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

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

The way that the elevational drawings are presented probably don't do the revisions justice as the inclusion of the two stacks should appear more attractive

in the street scene view. The details of the stacks are not particularly well defined on the submitted plans and would benefit from a corbel feature to help add a little more interest and this might also help to have a better visual link to the architectural style of the main building. The corbel feature is characteristic of the locality. I appreciate it might seem like a small detail but these can contribute to the visual quality of the resultant development.

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

Key Considerations

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

Roofscape design

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

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

Bin store

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

Policy TH10 of the Torquay Neighbourhood Plan and Policy SS10 of the Torbay Local Plan, require development to conserve the character of the conservation

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

Landscaping

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

Conclusion

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

Updated Recommendation

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

Previous Officer report to Planning Committee on 08.04.2019

Executive Summary/Key Outcomes

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

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

The proposed building would have an appearance derived from the principle of a modern take on a Victorian villa one which is not uncommon in Torbay and within the immediate vicinity. The building has rendered elevations with vertical

fenestration to pick up the architectural language of the building which would have originally occupied the site.

The building has been reduced in scale during the application process with the fourth storey being made more recessive and 15% smaller, the overall development is 10% smaller than when first submitted. The overall scale and height of the proposed development is considered to be acceptable and is deemed to retain the character of the Conservation Area.

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

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

Recommendation

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

Site Details

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

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

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

Detailed Proposals

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

The design of the building is a modern interpretation of the villa typology which is found within the conservation area. The elevations are to be largely white render

on the ground, first and second floors with black render on the third floor which is a recessed level. The elevations are vertically proportioned and heavily glazed. Natural stone walling is proposed adjacent to the new building and the boundary with Broadhurst Court.

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

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

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

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

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

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

Policy Context

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

Development Plan

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

Material Considerations

- Emerging Torquay Neighbourhood Plan
- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)

- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Summary Of Consultation Responses

Historic England

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

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

Conservation and Design Team

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

Drainage Engineer

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

South West Water

No objection

Highways / Strategic Transport

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

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

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

Arboriculture Officer

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

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

Police Designing out Crime Officer

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

Affordable Housing

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

Waste management

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

Summary Of Representations

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

- Overdevelopment

- impact on infrastructure
- poor design and harmful visual impact
- impact upon the conservation area
- impact upon the character of the existing villa
- too large/tall
- out of character
- loss of outlook
- loss of light
- loss of privacy and overlooking
- noise and disturbance
- lack of parking & traffic congestion
- access issues
- drainage

Relevant Planning History

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

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

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

Key Issues/Material Considerations

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

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

1. The principle of the development.

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

character and appearance of the Conservation Area. The loss of the existing building is not a central issue to consider in this context and would be hard to resist in planning terms.

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

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

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

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

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

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

The site is located in a reasonably prominent roadside position within the St. Marychurch Conservation Area. It is therefore important to consider whether the scale and form of the proposed buildings fits with the overall grain of the area

and does not adversely affect the character and appearance of the conservation area.

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

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

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

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

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

- o Enhance the vitality of the area
- o Strengthen the character of the area
- o Are appropriate in terms of their visual impact

- o Make a positive addition to the built form

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

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

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

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

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

3. Impact upon the residential amenity of adjacent occupiers.

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

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

The proposed building is set off of the west boundary by 4m and is 6m from the

closest point of Sandhurst Court. The realignment of the building and the increase in height which will result in a development 2.2m higher than the highest point of the existing would inevitably result in a more dominant building when viewed from Sandhurst Court the built form would however be sited further off of the boundary than is currently the case and the fourth storey would be recessed to the extent that the increase in height would have limited impact in terms of overdominance. However the building would be bulkier in terms of its height in relation to the boundary and in terms of the extent to which it protrudes further to the rear than the existing.

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

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

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

4. The quality of the proposed residential environments.

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

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

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

5. Highway, parking and movement impacts

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

The scheme proposes a parking ratio of 1:1 which is in accordance with the parking level required by Policy TA3 for apartment schemes outside of town centres. It is noted that parking pressures have been raised as a concern in representations. The Highways Officer has advised that the parking provision is acceptable and because of one hour on street parking and being close to a local centre, visitor parking is not essential on this site. The garage spaces, which were below the size standards in the Local Plan have been replaced by undercroft parking.

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

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

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

6. Flood risk and drainage impact.

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

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

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

Hydraulic calculations have been submitted to demonstrate that the surface water drainage for this development has been designed in order that there is no

risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

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

7. Ecological impact.

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

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

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

8. Arboricultural impact.

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

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

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

S106/CIL

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm. If the application is deemed to be acceptable, an informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

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

Neighbourhood Plan

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

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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity

and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

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

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

Conclusions

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

Condition(s)/Reason(s)

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

The approved statement shall be adhered to throughout the construction

period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

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

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

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

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

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

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

05. Notwithstanding the submitted landscaping details, prior to the first occupation of the development hereby approved, details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or

plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

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

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

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

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

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

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

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

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

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

10. The development hereby approved shall be constructed in strict

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

Reason: To ensure a satisfactory form of development that is in keeping with the area and does not impact upon the neighbouring existing dwellings, and to ensure that the proposal accords with DE1 of the Torbay Local Plan 2012 to 2030.

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

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

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

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

Informative(s)

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

02. Community Infrastructure Levy (CIL) This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough. CIL next steps required under the CIL Regulations 2010 (as amended): Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure. Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development. The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice. The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure. Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations). Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

Relevant Policies

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

DE4 - Building heights
ER1 - Flood Risk
ER2 - Water Management

Application Number

P/2019/0249

Site Address

The Coach House
Stearfield Road
Paignton
TQ3 2BG

Case Officer

Miss Emily Elliott

Ward

Roundham With Hyde

Executive Summary/Key Outcomes

This planning application proposes the erection of a detached building comprising two self-contained retirement apartments within the curtilage of The Coach House, Stearfield Road, Paignton.

The proposal is considered to be contrary to Policies DE1 (Design), DE3 (Development Amenity), TA2 (Development Access) and TA3 (Parking Requirements) of the Torbay Local Plan, along with Policy PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan, and is therefore recommended for refusal.

Recommendation

Refusal for the reasons given at the end of this report. The final drafting of these reasons and addressing any new material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Reason for Referral to Planning Committee

As the proposed development is on land owned by a Councillor, the Council's constitution requires that the application be referred to the Planning Committee for determination.

Statutory Determination Period

13th May 2019. Extension of time agreed until 12th July 2019.

Site Details

The application site is comprised of a retirement complex located on Stearfield Road.

Detailed Proposals

The application proposes a two-storey building with access to the two retirement apartments from its southern elevation. The main openings for the two apartments are on the eastern and western elevations. The ground-floor unit includes a kitchen/living room, a wet room and two bedrooms, although one bedroom states

it could also be used as a study. The first floor unit includes a kitchen/living room, a shower and water closet, and a bedroom.

The proposal also includes alterations to the parking provision, the removal of an existing off-street parking space and the introduction of three parallel off-street parking spaces from Steartfield Road.

Policy Context

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

Development Plan

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

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:

Summary Of Consultation Responses

Senior Tree and Landscaping Officer: Objection. The site is directly adjacent to an area tree preservation order (TPO) to the North (TPO Ref 1974.11, Tree Ref A2, confirmed 17/02/1975) – it is possible that some of the site is included within the area order. It is noted from the ecological survey that there are at least two trees on site. The design and access statement makes no reference to the TPO or the trees in general despite their proximity to the proposal. The design does not appear to account for the adjacent trees and the potential impact of the trees during the development phase or address the long term relationship between the trees and the proposal. Request for the design to be informed by an arboricultural report as per BS5837:2012 Trees in relation to design, demolition and construction – Recommendations.

Drainage Engineer: The development is located in Flood Zone 1 and the developer is proposing to discharge his surface water drainage using soakaways, please use the recently agreed standing advice for this planning application.

Highways Engineer: Highways would object as parking must be at a right angle to the highway with the vehicle able to enter and exit the property in one movement.

Paignton Neighbourhood Forum: No comments received.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Four letters of objection have been received.

Issues raised by the objectors:

- Not in keeping with local area
- Impact on local area
- Loss of light
- Noise
- Overdevelopment
- Privacy/overlooking
- Traffic and access
- Trees and wildlife

Relevant Planning History

No previous relevant planning history relating to the site.

Key Issues/Material Considerations

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

1. Principle of Development
2. Visual amenity
3. Residential amenity
4. Highways
5. Ecology and trees
6. Flood risk

1. Principle of Development

The proposal is for the erection of a building to comprise of two self-contained retirement apartments within the curtilage of The Coach House, Stearfield Road, Paignton. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

Policy H1 of the Torbay 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. Visual amenity

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In

addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) Design Principles 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 for a two storey, detached building, which would have a ridge height of approximately 5.5 metres, a width of approximately 4.8 metres, and a depth of approximately 11.5 metres. The proposal includes pitched roof dormer elements to the eastern and western elevations. Objectors have raised concerns that the proposed development is not in keeping with the local area, and that it would constitute a form of overdevelopment.

The proposed two-storey building would be located alongside the Coach House and around 0.5 metres from the boundary with properties at Oldenburg Park. It is considered, by reason of its siting, scale and relationship with existing buildings that the proposed development would result in a crowded and cramped form of development, to the detriment of the character of the area. Given its height and bulk in particular, it is considered that the appearance of the proposal would result in the creation of an incongruous addition to the existing streetscene and garden environment of the retirement complex and other neighbouring properties.

Therefore, the proposal is considered to be contrary to Policy DE1 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan, and the guidance contained in the NPPF.

3. Residential amenity

Policy DE3 Development Amenity of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The proposed two bedroom ground floor apartment has an internal floor area of approximately 54 square metres. It includes a living area with kitchen, a wet-room and two bedrooms. Table 23 of the Local Plan sets out the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standard. For a two bedroom apartment, with three bed spaces, the minimum gross internal floorspace area is 61 square metres, therefore the proposed two bedroom apartment has a deficit of 6 square metres and is contrary to Policy DE3 of the Local Plan.

The proposed one bedroom first floor apartment has an internal floor area of approximately 55 square metres. It includes a living area with kitchen, a shower and water closet and one bedroom. Given Table 23 of the Local Plan, a one

bedroom apartment should have a minimum gross internal floorspace area of 39 square metres, therefore the proposed one bedroom first floor apartment complies with Policy DE3 of the Local Plan.

Policy DE3 of the Local Plan also states that apartments should provide 10 square metres of outdoor amenity space. Whilst the proposed building would not include any amenity space of its own, the proposed dwellings would have access to the existing communal garden within the wider site.

Objectors have raised concerns that the proposed development would result in a loss of light, noise and overlooking. The proposed development would be approximately 0.5 metres from the boundary of No.18 Oldenburg Park and approximately 12 metres from the rear elevation of the associated dwelling. Given the height and bulk of the proposed development in such close proximity to a neighbouring garden and dwelling, it is considered that it would have an overbearing effect in relation to this neighbouring properties, resulting in unacceptable harm to the amenities of neighbours.

The proposal would result in the creation of three new car parking spaces, two of which would be located alongside Nos.22-29 The Coach House – these would replace a parking space lost as a result of the proposal, and provide parking for the two proposed units. Given their location, parallel to the windows of the existing properties, it is considered that they are likely to result in an unacceptable level of disturbance to the occupiers of The Coach House. The proposal is therefore contrary to Policy DE3 of the Local Plan.

It is considered that the proposal would provide a poor standard of accommodation for future occupiers of the ground floor flat. Two of the proposed parking spaces would have an unacceptable effect through disturbance on the occupiers of The Coach House. Furthermore, the height and bulk of the proposal would have an unacceptable overbearing effect in relation to neighbouring occupiers at Oldenburg Park.

The proposal is therefore contrary to Policy DE3 of the Local Plan.

4. Highways

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 TA2 Development Access of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 Parking Requirements of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy PNP1(d) Residential Development 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.

Appendix F of the Local Plan sets out that for new apartments there is a one off-street car parking space requirement per apartment. The proposal proposes three off-street parking spaces for the proposed apartments. Parking spaces which abut the public footway and highway should be 5.5 metres by 3.2 metres to prevent vehicles from causing an obstruction to the public footway and potentially the public highway, the existing and proposed off-street parking spaces achieve this. The Highways Development Control Standing Advice for Minor Development Applications states that off-street parking spaces must be at a right angle to the public highway to ensure that vehicles are able to enter and exit the public highway in one movement.

The proposal would remove an existing substandard off-street parking space and proposes the insertion of three parallel parking spaces adjacent to the western elevation of the proposed development and The Coach House. The proposed off-street parking spaces do not comply with the required dimensions stated under Appendix F, as they range from 6.5-7 metres by 2.6 metres, instead of the required 5.5 metres by 3.2 metres. The Council's Highways Engineer objects to the proposed development, as the proposed off-street parking must be at a right angle to the highway with the vehicle able to enter and exit the property in one movement. One parking space is adjacent to Steartfield Road, whilst the other two are sited within an unadopted car park. The proposed parking spaces are not supported with a vehicle tracking plan, therefore there is uncertainty as to whether the vehicles could access the spaces given the area above the central and right-hand side spaces being sited within the unadopted car park.

The proposed floorplans and layout do not indicate an area dedicated for refuse or cycle storage, however this could be secured by means of a planning condition.

The proposal is therefore contrary to Policies TA2 and TA3 of the Local Plan.

5. Ecology and Trees

Policy NC1 Biodiversity and Geodiversity of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Objectors have raised concerns of the wildlife present on site. The site is supported by an ecological appraisal, which the findings states that there are no habitats on site for any species of bat to find sustenance or foraging opportunities. The report also found that many birds visit the feeders on site and in adjacent gardens and concludes that if the development were to take place during the bird breeding season there is a high probability that birds would be disturbed at the nest, in the shrubbery behind the fence and the bird box on the wall in the neighbouring garden. The report states that development can only take place when it is known that all the birds in the vicinity are fully fledged and left the

nest. No further surveys are required. The proposal therefore complies with 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 directly adjacent to an area tree preservation order (TPO) to the North (TPO Ref 1974.11, Tree Ref A2, confirmed 17/02/1975) – it is possible that some of the site is included within the area order. Objectors have raised concerns with regards the impact of the protected trees. The Council's Senior Tree and Landscape Officer recommends refusal and stated that the design does not appear to account for the adjacent protected trees and the potential impact of the trees during the development phase or address the long term relationship between the trees and the proposal. The Council's Senior Tree and Landscape Officer has requested for the design to be informed by an arboricultural report as per BS5837:2012 Trees in relation to design, demolition and construction – Recommendations. The applicant does not wish to undertake an arboricultural report due to the unfavourable recommendation made.

The applicant has not submitted sufficient information to enable the Council to assess if the proposed development would have an acceptable impact on the existing protected trees, therefore it cannot be confirmed if the proposed development would accord with Policy C4 of the Local Plan.

6. Flood risk

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

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. Objectors have raised concerns with regards to drainage. The Council's Drainage Engineer raises no objection. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article

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

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

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

Conclusions

The proposed development is considered unacceptable, having regard to the Torbay Local Plan, the Adopted Paignton Neighbourhood Plan, and all other material considerations.

Condition(s)/Reason(s)

01. Given its siting, scale and design, along with its relationship to existing buildings, it is considered that the proposal would result in a cramped form of development and an incongruous addition to the streetscene and the rear garden environment of neighbouring properties. As such, the proposal would be detrimental to the character of the area, contrary to Policy DE1 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.
02. The proposed ground floor apartment would provide a poor quality residential environment by reason of the area of internal living space that would be available to future occupiers, which is below that required by Policy DE3 of the Torbay Local Plan.

03. Given the proposal's siting and scale in close proximity to a neighbouring property at Oldenburg Park, it is considered that the proposal would contribute to an unacceptable overbearing effect and overshadowing within that dwelling's rear garden area. As such, the proposal is contrary to Policy DE3 of the Torbay Local Plan.
04. The proposed parking spaces are likely to result in noise and general disturbance to neighbouring occupiers given their close proximity to existing dwellings at The Coach House. As such, the proposal is contrary to Policy DE3 of the Torbay Local Plan.
05. Given the sub-standard size and design of the proposed parking spaces, the proposed development would result in an inadequate level of car parking provision, to the detriment of highway safety and amenity. As such, the proposal is contrary to Policies TA2 and TA3 of the Torbay Local Plan.
06. The proposed works are in close proximity to protected trees. As a tree survey and assessment has not been provided it cannot be determined whether or not the proposal would have an acceptable impact on the protected trees and the contribution they make to the visual amenities of the surrounding area, and therefore whether the proposal would be in accordance with Policy C4 of the Torbay Local Plan.

Relevant Policies

C4 - Trees, Hedgerows and Natural Landscape Features

DE1 - Design

DE3 - Development Amenity

ER1 - Flood Risk

H1 - Applications for New Homes

NC1 - Biodiversity and Geodiversity

TA2 - Development Access

TA3 - Parking Requirements

PNP1(c) - Design Principles

PNP1(d) - Residential Development

PNP1(i) - Surface Water

Application Number

P/2019/0277

Site Address

Lynwood
Jacks Lane
Torquay
TQ2 8QX

Case Officer

Miss Emily Elliott

Ward

Barton with Watcombe

Executive Summary/Key Outcomes

This planning application proposes the material change of use of Lynwood, Jacks Lane, Torquay, from a seven bedroom residential dwelling (use class C3) to a seven bedroom residential care institution (C2).

The proposal is considered to comply with Policies H6 (Housing For People In Need Of Care), DE1 (Design), DE3 (Development Amenity), TA2 (Development Access), TA3 (Parking Requirements) and ER1 (Flood Risk), of the Torbay Local Plan and Policy TH8 (Established Architecture) of the Torquay Neighbourhood Plan.

Recommendation

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

Reason for Referral to Planning Committee

The application has been referred to Planning Committee due to the number of objections that have been received.

Statutory Determination Period

21st May 2019.

Site Details

The application site comprises a detached dwelling, located along a residential street. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

Detailed Proposals

The application proposes the material change of use of a residential dwelling (use class C3) to a residential care institution for respite care (use class C2). The site is accessed to the south from Jacks Lane. There is an outdoor amenity space to

the rear of the building. The proposal includes maintaining the existing off-street parking provision.

There are no physical internal or external alterations proposed. The ground floor of the building includes two kitchen/dining areas, a lounge, two bathrooms, five bedrooms of which one includes an en-suite, an integral garage and a water closet accessed externally. The first floor of the building includes a bathroom and two bedrooms, of which one includes a storage room.

Supporting information provided with the application states that there would be a total of sixteen members of staff, with four members of staff always being on duty between the hours of 08:00 to 20:00 and one member of staff being on duty at night. The residents have learning disabilities and require respite care. The facility provides each individual with their own tailored care plan which stipulates the length of time they are able to use the service from, it varies from one night to more than two weeks. All the individuals that use the service will require staff support on and off the premises and will normally be transported to the site by staff.

The supporting information states that the use of ambulances is not typically involved, as it is not the type of service that requires ambulance transportation, except in emergencies. It goes on to state that of the sixteen members of staff, ten are drivers, with the remaining six members of staff using sustainable methods of transportation such as bus or bicycle, therefore including the dedicated house vehicle there would only be a need for four vehicles to be parked on site at any one time and there is sufficient curtilage to provide bicycle storage. The facility does not typically have visitors as the residents are having breaks away from their family members.

Policy Context

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

Development Plan

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

Summary Of Consultation Responses

Senior Planning Policy Officer: I write in respect of application P/2019/0277 which is for the change of use of a dwelling to a Use Class C2 care home. My comments are informed by conversations with the applicant and a number of persons in the local health and care system, including Torbay and South Devon NHS Foundation Trust and the Torbay Council Joint Commissioning Team. Both organisations form part of the membership of the Council's 'Spatial Planning, Health and Care Partnership Group' which has senior representation from local health and care system partners for the purposes of engaging in a joined-up way to provide responses to development proposals.

Policy H6 of the Torbay Local Plan (housing for people in need of care) provides for the approval of C2 uses where the following requirements are met:

- (i) Clear evidence of need is provided with the development proposal
- (iv) They will not add undue pressure on local healthcare or social services

My comments are aimed specifically at the consideration of those two requirements:

Evidence of need

The application refers to the provision of a C2 care home. In this instance, the specific intended use is for short-term replacement care (respite). These sorts of services are intended to provide short breaks for persons in need of care and support and the ability of full-time carers to have a break from caring duties for a short period of time. Information provided by colleagues within the Torbay and South Devon NHS Foundation Trust would indicate that there is currently a shortage of this type of accommodation within Torbay. Existing providers within Torbay show high levels of occupancy and demand outstripping supply. There is evidence of carers raising a lack of choice and the lack of capacity having detrimental impacts upon their ability to take short breaks when required which is important in supporting them as an important part of the health and care system in Torbay. My conclusion is that there is sufficient evidence of current need to be compliant with Policy H6.

However, whilst balancing the consideration of development proposals in the light of evidence of current needs, there must also be a consideration of future needs. The Healthy Torbay SPD (pg. 41) recognises that development proposals should align with local strategies for delivery of new models of care, which includes aiming to transition services and support towards providing less bed-based accommodation and support for short breaks in other ways. *The Market Position Statement for Adult Social Care and Support and Children's Services 2016+* alludes to this strategy.

2.2.2.10 'Short break' (respite) services

In 2014/15, 636 adults received short break services funded or part funded by adult social care in Torbay⁴⁰ (See Appendix 1: Figure 25). This number has remained similar since 2010/11. These services enable relatives who provide full-time care to have a break from carer duties for a short period of time. TSDFT are looking at new options for short breaks. The aim is to create a wider breadth of sustainable services that meet people's needs now and in the future.

The strategy to provide alternative offers for carers who are seeking short term replacement care options is intended to lead to a decreased in the growth of demand for short term replacement care in Torbay. So, whilst there is sufficient evidence of current need, this must be balanced against any transition to new arrangements.

Impact on local healthcare or social services

A pressing local issue is to alleviate pressure experienced on local healthcare and social services. The Planning Contributions and Affordable Housing SPD sets out a consideration of this issue and a procedure for potentially mitigating the impact from care accommodation where additional supply is likely to be created within Torbay but is likely to serve demand pressures from outside Torbay, therefore increasing costs locally, which is not sustainable. Contributions are not to be sought where development is restricted to occupancy from existing residents of Torbay.

It is understood that the delivery of short term replacement care within the proposed development (to serve 6 persons) will in effect substantially substitute and replace existing care provision at an existing site owned by the intended operator within Torbay (Burrow Down). It is also understood and agreed by health and care partners within the NHS and the Council that the new accommodation will provide enhanced accommodation of a high quality and it has been highlighted to me, for instance, that habilitation (helping to prepare persons for independence) is a key feature of the intended accommodation. These are material considerations in the light of the explanation to Policy H6 of the Local Plan (page 190) which indicates that '*the direct replacement and substitution of existing care homes which are not fit for purpose, to offer new facilities in Torbay with new models of care, in keeping with the aspirations of an Integrated Care Organisation, will be supported.*'

Taking the above into account, the proposed development would be supported, in this instance, by partners in the local health and care system (NHS and Council) and in my view be compliant with Policy H6 of the Torbay Local Plan, The Healthy Torbay SPD and the Planning Contributions and Affordable Housing SPD subject to the following conditions being required:

- That the use is restricted by way of a planning condition to use within C2 for 'short term replacement (respite) care' only.

- That occupancy is restricted to that of existing residents of Torbay only.

Strategic Transport Officer: I have seen the proposed layout plan, Transport Statement, Parking Statement and the associated policy comments in relation to the proposal. Jacks Lane is a narrow, two way road with 'Access Only' restrictions from Barton Hill Road. There are no footway either side along this section. (Google Earth Images: Jacks Lane view east and Lynwood entrance view west and east below).

In accordance with Policy TA3 Appendix F, suitable, secure, cycle storage is provided at a ratio of 1 per 2 employees. The number will depend on the FTE staff present on-site. The car parking will probably exceed the Local Plan ratio for 'people in need of care' but it might be helpful to differentiate between Visitor Parking and Staff Parking. There is also a need to the provider of convenient, secure and covered storage of mobility scooters with dedicated electrical charging has not been shown. The LHA would need to understand if residents will use mobility scooters in order to make further comments on the suitability of the site.

Torquay Neighbourhood Plan: TNP Policy TH5 states: *New residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities.*

Highways Engineer: Future Planning Will lead on this Application being a proposed care Home.

Highways Technical issues are the western visibility arm on the existing access could be improved and could achieve adequate visibility if the hedges above the wall were cut back and a white line T bar was painted 0.5m off the access point across the length of the driveway.

The visibility on the eastern arm is sub-standard, but the developer may argue it is an existing access and the number of trips will not have increased as a small people carrier will be used to transport the residents.

Waste Officer: A suitable waste management plan should be asked for, to include details of all commercial/clinical waste and recycling.

Senior Environmental Health Officer: I do not have any objections to the above Planning Application, however I have the following comments to make:

1. Food areas must comply with Food Hygiene legislation, including registering the business with this Department 28 days prior to opening.
2. You must have suitable refuse areas inside and outside the premises. Refuse must be deposited in closable containers which can be kept clean and

disinfected. Refuse areas must be kept clean. Any other types of containers or system must be agreed by the Authority.

3. You must have a commercial waste contract for collection of your trade refuse.
4. Suitable equipment shall be installed to treat and disperse emissions from cooking operations on the premises. Details of the proposed equipment, including noise levels and odour abatement, shall be submitted to the Local Planning Authority for written approval prior to commencement of the development. The equipment must be implemented in accordance with the approval. Following installation, the equipment shall be operated and maintained in accordance with manufacturer's instructions for as long as the proposed use continues. You need to prepare a detailed technical submission.
5. You must consider your legal obligations under the Health and Safety at Work etc Act 1974.
6. The premises must comply with the Health Act 2006 to ensure all enclosed areas are smoke-free. Any designated smoking areas must comply with the legislation and be non-substantially enclosed.
7. You must make sure that the kitchen has a dedicated wash hand basin for sole use in the kitchen and not associated with any WC. It should have a supply of running hot and cold water.

Torquay Neighbourhood Forum: No comments received.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Four neighbour notification letters were sent to those neighbours which the development could affect. 15 letters of objection and 1 letter of support has been received.

Concerns raised in objection include:

- Not in keeping with local area
- Noise
- Privacy/overlooking
- Residential amenity
- Sets a precedent
- Traffic and access
- Contrary to Local Plan policies

Comments raised in support include:

- It provides facilities
- Provides/retains jobs

Relevant Planning History

P/2001/0299: Alterations And Formation Of Dormers And Roof Lights To Provide Additional Bedroom With En-Suite Facilities And New Study (As Revised By Plans Received 27/4/01). Approved 18/05/2001.

P/1993/0963: Provision Of Pitched Roof At Rear To Replace Existing Flat Roof. Approved 24/09/1993.

P/1985/1959: Extn To Form Granny Flat. Approved 21/08/1985.

Key Issues/Material Considerations

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

1. Principle of Development
2. Visual amenity
3. Residential amenity
4. Highways
5. Flood risk

1. Principle of Development

The proposal is for the material change of use of a seven bedroom residential dwelling (C3) to a seven bedroom residential care institution (C2). There are no Local Plan policies indicating that the proposal is not acceptable in principle.

Policy H6 of the Local Plan states that the Council will support measures to help people live independently in their own homes and to live active lives within the community. Policy H6 goes on to state that this will be achieved through new care homes (C2), which will only be approved where:

- i) Clear evidence of need is provided with the development proposal;
- ii) They are accessible to facilities and public transport;
- iii) They will not harm the creation or retention of mixed and balanced communities;
- iv) They will not add undue pressure on local healthcare or social services; and
- v) In the case of existing care homes, this leads to an improvement in the quality of care facilities provided.

Objectors have raised concerns that the proposed material change of use from C3 to C2 does not comply with Policy H6 of the Local Plan. A letter of support states that the proposal provides much needed facilities.

The Council's Senior Policy Officer has provided a response with regard to criteria i) and iv), which will be discussed in this section of the report. Criteria ii) and iii) will be discussed in further sections of this report. Criterion v) is not relevant as the proposal does not relate to an existing care home.

The submitted information states that the material change of use will be for 'respite

care' for a maximum of six individuals. Such services are intended to provide short breaks for persons in need of care and support and the ability of full-time carers to have a break from caring duties for a short period of time. The Council's Senior Policy Officer has received information from colleagues within the Torbay and South Devon NHS Foundation Trust who have indicated that there is currently a shortage of this type of accommodation within Torbay, due to existing providers within Torbay showing high levels of occupancy and demand outstripping supply. This is further evidenced by carers raising lack of choice and the lack of capacity having detrimental impacts upon their ability to take short breaks when required, which is important in supporting them as an important part of the health and care system in Torbay. The Council's Senior Policy Officer concludes that there is sufficient evidence of current need to be compliant with Policy H6 of the Local Plan.

Whilst balancing the consideration of development proposals in the light of evidence of current needs, there must also be a consideration of future needs. The Healthy Torbay Supplementary Planning Document (SPD) recognises that development proposals should align with local strategies for delivery new models of care, which includes aiming to transition services and support towards providing less bed-based accommodation and support for short breaks in other ways. The Market Position Statement for Adult Social Care and Support and Children's Services 2016+ alludes to this strategy, stating that 'the aim is to create a wider breadth of sustainable services that meet people's needs now and in the future'.

When considering the impact of the proposed material change of use on local healthcare or social services, there is a pressing local issue to alleviate pressure experienced on local healthcare and social services. The Planning Contributions and Affordable Housing SPD sets out a consideration of this issue and a procedure for potentially mitigating the impact from care accommodation where additional supply is likely to be created within Torbay but is likely to serve demand pressures from outside Torbay, therefore increasing costs locally, which is not sustainable. Contributions are not to be sought where development is restricted to occupancy from existing residents of Torbay.

The delivery of short term replacement care within the proposed development (to serve 6 persons) at Lynwood, Jacks Lane, Torquay, will in effect substantially substitute and replace existing care provision at an existing site owned by the intended operator within Torbay (Burrow Down Support Services Ltd). It is also understood and agreed by health and care partners within the NHS and the Council that the new accommodation will provide enhanced accommodation of a high quality and it has been highlighted to me, for instance, that habilitation (helping to prepare persons for independence) is a key feature of the intended accommodation. These are material considerations in the light of the explanation to Policy H6 of the Local Plan which indicates that '*the direct replacement and substitution of existing care homes which are not fit for purpose, to offer new facilities in Torbay with new models of care, in keeping with the aspirations of an Integrated Care Organisation, will be supported.*'

The proposed development would be supported, in this instance, by partners in the local health and care system (NHS and Council) and therefore the Council's Senior Policy Officer concludes that the proposed material change of use is compliant with Policy H6 of the Local Plan, The Healthy Torbay SPD and the Planning Contributions and Affordable Housing SPD, subject to the employment of planning condition to ensure that the use is restricted by way of a planning condition to use within C2 for 'short term replacement (respite) care' only and that occupancy is restricted to that of existing residents of Torbay only.

Objectors have also raised concerns that the material change of use will set a precedent and that the proposal is not in keeping with the local area.

In relation to setting a precedent, it is considered that the proposal should be assessed on its own merits and having to provide evidence and compliance with policies of the Local Plan. The site forms part of the built up area, but is not otherwise subject to any designations within the Local Plan and does not include any physical alterations to the building, therefore it is considered that the proposal is in keeping with the local area. The proposed material change of use is therefore considered acceptable in principle.

Policy TH5 of the Torquay Neighbourhood Plan *states that new residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities.* This matter will be considered later in this report.

2. Visual amenity

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

The proposed material change of use does not include any physical alterations internally or externally to the existing building. Therefore, as there are no physical alterations proposed, it is considered that given the proposal's siting, scale, and design, that it would not result in unacceptable harm to the character or visual amenities of the locality.

Therefore, the proposal is considered to comply with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

3. Residential amenity

Policy DE3 Development Amenity of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

The submitted information shows that the existing and proposed layouts are identical. Objectors have raised concerns that the proposed development would create noise, have an adverse impact on privacy/overlooking, and have a negative impact on residential amenity.

Environmental Health officers have raised no objections to the proposal, therefore it is considered that in terms of noise, the proposal would not generate any substantial noise or disturbance to neighbours. The proposed development does not include any physical alterations to the building and therefore the existing openings would be utilised and would maintain the same levels of intervisibility as is currently the case. Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours in terms of their outlook, privacy, or access to natural light.

Criterion iii) of Policy H6 of the Local Plan states development proposals will only be supported where they will not harm the creation or retention of mixed and balanced communities. Policy SS11 of the Local Plan states that development proposals will be assessed as to whether they can promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation and other facilities. The proposal would provide needed care services within Torbay, to existing Torbay residents, and it is therefore considered that it would help to maintain a mixed and balanced community within the area and would provide a facility to those disadvantaged within Torbay.

Every habitable room is considered to provide adequate outlook and levels of natural light for its residents. The proposal also retains the existing outdoor amenity space.

The proposal is therefore considered to be in accordance with Policies DE3, H6, and SS11 of the Local Plan.

4. Highways

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 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 H6 ii) states that facilities such as that proposed should be accessible to facilities and public transport.

Policy TH5 of the Torquay Neighbourhood Plan *states that new residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities.* It is noted that the proposed development would be easily accessible by public transportation, with bus routes located nearby, and that the site is located in close proximity to the Barton Hill Road Local Centre. The proposal therefore complies with Policy TH5 of the Torquay Neighbourhood Plan, and Policy H6 ii) of the Local Plan.

The proposal maintains the existing off-street parking provision. The proposed layout shows three off-street parking spaces and an integral garage. Objectors have raised concerns with regards to traffic and access. Supporting information provided with the application states that there are sixteen members of staff, with four members of staff being on duty at any one time between the hours of 08:00 to 20:00, and one member of staff being on duty at night. The supporting information states that ambulances are not an issue, as it is not the type of service that requires ambulance transportation, only in an emergency as for any other household. It goes on to state that of the sixteen members of staff, ten are drivers, with the remaining six members of staff using sustainable methods of transport such as bus or bicycle, therefore including the dedicated on-site vehicle, there would only be a need for four vehicles to be parked on site at any one time and there is sufficient curtilage to provide bicycle storage. It is not usual to have visitors as the residents are having breaks away from their family members.

The Council's Highways Engineer has stated that there are technical issues with the western visibility arm on the existing access which could be improved and could achieve adequate visibility if the hedges above the wall were to be cut back and a white line T bar was painted 0.5 metres off the access point across the length of the driveway. The visibility on the eastern arm is sub-standard. However, based on the information provided and the nature of the proposed use, it is not anticipated that the proposal would result in a significant intensification of the site's use in terms of access arrangements and parking.

The Council's Strategic Transport Officer has stated that in accordance with Policy TA3 Appendix F, suitable, secure, cycle storage should be provided at a ratio of 1 per 2 employees, this can be secured through means of a planning condition. As there will be a maximum of four members of staff present at any one time on site, there is a requirement to provide two suitable, secure cycle storage spaces. It has been stated in the supporting information that residents would not use mobility scooters, therefore it is not considered necessary to request mobility scooter parking.

The car parking layout has been revised to ensure that all vehicles are able to manoeuvre on site and therefore enter and leave in a forward gear. In order to reinforce the suitability of the proposed parking arrangements, a travel plan can be secured through the use of a planning condition. The travel plan must clearly set out the targets and how these will be achieved. The travel plan should be refreshed to set out opportunities for 30% modal shift for staff and visitors, with SMART targets and monitoring regime (as per Policy TA1 and Policy TA2 of the Local Plan)..

The proposed floorplans and layout do not indicate an area dedicated for refuse or cycle storage, however this could be secured by means of a planning condition.

Subject to the aforementioned planning conditions, the proposal is considered to be in accordance with Policies TA2 and TA3 of the Local Plan.

5. Flood risk

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 is accompanied by a Flood Risk Assessment. As the proposed development would not result in an increase in the impermeable area on the site, the proposal is deemed acceptable in terms of its impact on surface water flooding. Given the nature of the proposal, the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106/CIL -

S106:

Not applicable, subject to the use of a planning condition to ensure the facility serves local residents only.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

Conclusions

The proposal is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

Condition(s)/Reason(s)**Torbay Residents and Short-term Care**

The care facility hereby approved shall only serve existing residents of Torbay, and shall only provide short-term replacement (respite) care with residents staying at the facility for a maximum of 12 weeks at any one time. An up to date written record of the facility's residents, including their permanent home addresses and duration of stay, shall be maintained on site at all times, and shall be made available to the Local Planning Authority on request.

Reason: In the interests of providing a service to address local needs, in accordance with Policy H6 of the Torbay Local Plan.

Parking Provision

The development hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the approved plans have been provided in full. These elements shall thereafter be retained for the use of the associated development 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.

Bin Storage

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the

Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

Bicycle Storage

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

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

Travel Plan

Prior to the use of the development hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall set out opportunities for a 30% modal shift for staff and residents, with SMART targets and a monitoring regime, with the achievement of targets being given over a specific timeframe.

Reason: In the interests of road safety and sustainability, and in order to accord with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

Relevant Policies

- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- H6 - Housing For People In Need Of Care
- SS11 - Sustainable Communities
- TA2 - Development Access
- TA3 - Parking Requirements

- TH5 - Sustainable Later Life Homes
- TH8 - Established Architecture

Application Number

P/2019/0420

Site Address

Land To Rear Of Broadway
Dartmouth Road
Brixham
TQ5 0LH

Case Officer

Mr Alexis Moran

Ward

Churston With Galmpton

Executive Summary

This is a Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling within a site that has outline approval for up to ten dwellings. The site is located within the Churston/Galmpton village envelope.

The submitted layout plan broadly follows the housing density and established urban grain of the villages of Churston and Galmpton. It is considered that the form, layout and design of the proposed development would be compatible with the appearance and character of the surrounding area. Consequently it is, on balance, considered to be appropriate for conditional reserved matters approval, having regard to the Development Plan, and all other material considerations.

Recommendation

Approval, subject to the conditions detailed at the end of this report. The final drafting of these conditions, and addressing any new material considerations that may come to light, to be delegated to the Assistant Director of Planning and Transport.

Site Details

The site is located to the west of the Dartmouth Road and to the south-east of the Weary Ploughman Public House (a Grade II Listed Building). Churston Grammar School playing fields lie to the west of the site and there is a petrol filling station to the south.

The site is located within an area designated as Countryside Zone, is within the Greater Horseshoe Bats foraging zone and an area known to be used by Cirl Buntings. The Application Site is classed as being of 'low' value to bats and the proposed development will not result in the loss of any features of value for roosting and/or feeding.

A Tree Preservation Order covers the eastern and northern boundaries of the site; these trees are considered to be important to the visual character of the area. The site area measures 0.27 hectares.

The site is located within the Churston/Galmpton Village Envelope in the Torbay Local Plan. This identifies it as an area which could provide appropriate levels of housing provided that it would be in keeping with the density and character of the area.

Detailed Proposals

This is a Reserved Matters application relating to the layout, design, scale and landscaping of one dwelling and associated development.

The dwelling is proposed to be a coach house with two parking spaces and would include a double garage for unit 8 of the associated development, which is the subject of a previously approved application for reserved matters (P/2018/0852) for a development of 9 units. The dwelling under consideration would be the tenth unit associated with Outline permission P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access, approved 17.08.2015).

The dwelling is shown as being finished in render with natural slate to the roof.

Policy Context

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

Development Plan

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

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.

Summary Of Consultation Responses

Natural England - No objection

SWW - No Objection

Highways - *The Adopted Torbay Highway Design Guide policy states 5 dwellings and over on a new site should be encouraged to be adopted by the LHA, but to date the Developer has not contacted the LHA to prepare a section 38*

Agreement with this Council.

The current layout does not show a suitable turning head that conforms with Today's Adoptable Standards.

If the Developer intends to adopt the access road then the proposals are contrary to the above policy.

Arboricultural Officer - The Arboricultural Statement TC190104-AS-03.2019.RevA seeks to show the previous refusal, based on the arboricultural input, is not substantiated.

The Statement counters the two points of refusal which are a) the plot would be overshadowed and b) future occupiers are likely to apply pressure to lop or fell the trees.

Point A – the overshadowing - is countered by showing that the orientation/location of the property is to the south and west of the tree line and therefore will not be in shade when using the BS5837:2012 shade arc.

Point B – future occupiers are likely to apply pressure to lop or fell the trees – is countered by way of an explanation of tree form, the orientation and internal layout of the plot, a reasoned pruning specification (which also includes a reference to the previous application for use as a car parking area which was approved), a comment on the amenity that the closest trees to the proposed plot 10 are of less significance than the surrounding trees and the argument that the trees subject of the tree preservation order will not be owned by the occupiers of plot 10.

Conclusion: Point A – shadowing of the property – is successfully rebutted by the arboricultural statement using the industry standard, BS5837:2012, for shade arc.

Point B – future pressure to fell – the relationship of the trees to plot 10 are such that the recommended pruning will provide sufficient amenity separation from the development. This will result in the regular/cyclical pruning of the trees to maintain the separation distance and to ensure the relationship between the building and the trees is sustainable. The internal layout shows the primary living areas furthest away from the trees. Although the trees subject of a TPO will be within the adjacent garden an application can be submitted by a third party to carry work out tree works irrespective of whether the work can be carried out potentially leading to pressure to carry works out.

The Arboricultural Appeal statement, ref TC190104-AS-03.2019.RevA, successfully counters the arboricultural aspect of refusal notice.

Recommendation:

The development of plot 10 can proceed without significant harm to the trees subject to.

- *A detailed Arboricultural Method Statement (AMS) be submitted and approved prior to the commencement of development.*
- *A Tree Protection Plan be submitted and approved prior to commencement of development (can be included within the AMS).*
- *A detailed landscape scheme be submitted and approved prior to commencement of development.*

Senior Historic Environment Officer - *The proposal will not have a detrimental impact on the character or setting of the Grade II Listed Weary Ploughman.*

Summary of Representations

None

Relevant Planning History

P/2018/0837 - Reserved matters relating to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Tenth unit only. Refused 23.01.2019

P/2018/0852 - Reserved Matters application in relation to P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.). Approved 23.01.2019

P/2016/0772 - Removal of condition re P/2015/0097 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access.) Condition 3 - Traffic calming measures. Approved 19.04.2017

P/2016/0206 - Submission of Reserved Matters relating to layout, in relation to P/2014/0687 (Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access) 30.06.2016

P/2015/0097 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 17.08.2015

P/2014/0687 - Development of up to 10 dwellings and associated infrastructure with all matters reserved other than access. Approved 13.10.2014

Formal pre-application advice provided in May 2014. This related to a residential development consisting of 14 dwellings and associated infrastructure. The Officer response stated that the density of the development would need to be reduced (DE/2013/0137).

Key Issues / Material Considerations

The key issues are:

1. The principle of the proposed development
2. Design and scale
3. Impact on residential amenity
4. Other considerations

1. The Principle of the Proposed Development

The principle of residential use of the land for up to ten dwellings was established by the granting of outline planning permission, which related to access only, under planning reference P/2015/0097.

2. Design, Scale and Layout

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.

The centres of Churston and Galmpton Villages consist of terraced cottages however the wider area encompassed by the Village Envelope has a varied character in terms of design, dwelling forms and plot sizes.

In the main, the external materials of dwellings within the village envelope consist of render and stone. The proposed dwelling is to be finished in render with UPVC timber effect doors and windows, and natural slate.

Bearing this in mind it is considered that in essence the proposed appearance and design, having regard to the form and materials, complies with Policy DE1 of the Torbay Local Plan.

The layout of the proposal would place the dwelling in close proximity to the protected trees on the eastern boundary of the site. The previously refused application on this site P/2018/0837 included the following reason for refusal:

The siting and orientation of the proposed dwelling on the plot in close proximity to protected trees would cause overshadowing of the property and the external amenity area which would result in a poor standard of accommodation for the proposal's future occupiers, contrary to Policy DE3 of the Local Plan. The conflict that is likely to emerge between the protected trees and the proposal's occupiers is likely to result in pressure to lop or fell trees that are protected for their amenity value. The proposal is therefore contrary to policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

However after the submission of further justification from the applicant has resulted in the Council's Arboricultural Officer advising that this relationship is acceptable subject to conditions, one of which is prior to commencement.

There are two parking spaces below the proposed dwelling associated to it which would meet the standards required by Policy TA3. Bin storage and cycle parking were conditioned on the outline consent (P/2015/0097); therefore these details will need to be submitted at a later date.

Bearing the above points in mind, the proposal is deemed to be in accordance with Policies C1, H1, DE1 and TA3 of the Local Plan.

The most relevant Brixham Neighbourhood Plan policies for this application are Policies BH3, BH4, BH5 & E7. These policies require development to be of good quality design and to respect the local character in terms of height, scale and bulk and reflect the identity of its surroundings, to provide a good quality of residential environment and to retain and enhance the landscape character of the area. The proposal is considered to comply with these policies.

It is however considered that conditions requiring further details of boundary treatments, further detail of hard and soft landscaping and its implementation and the removal of permitted development rights for all extensions to the buildings and within the plots, including means of enclosures, should be added to any granting of planning permission. The addition of these conditions is considered necessary in order to ensure the development accords with the aforementioned policies in future.

The Weary Ploughman public house, which is a Listed Building, is in excess of 50m away from the site. Given this distance it is considered that there would be no harm to this heritage asset as a result of the development of this site. The proposal would not be of detriment to the character or setting of the Listed Building and would therefore comply with Policy HE1 (Listed Buildings).

3. Impact on residential amenity

The proposed coach house complies with the internal floor area standards of Policy DE3 (Development amenity). It would be above garages for up to 4 cars, 2 of which would belong to a separate unit within the site, there is also an area of hardstanding adjacent to the dwelling which appears to be for car parking.

The previously refused application on this site P/2018/0837 included the following supplementary reason for refusal:

The ground floor parking layout and proximity of the external parking area to the south of the proposed dwelling has the potential to cause an unacceptable level of noise and disturbance which would cause harm to the amenities of the future

occupiers of the proposed dwelling. Moreover, the need to provide parking for unit 8 in this location indicates that the proposal would lead to an overdevelopment of the site. The proposal is therefore contrary to Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

However further analysis of the relationship between the ground and first floor and additional justification from the applicant has been provided.

The parking spaces for unit 8 would be located beneath the proposed dwelling. It is considered that the layout of accommodation proposed is optimal with regards to the parking layout below and on balance would not result in an unacceptable level of noise and disturbance to the extent of warranting the application being refused. It is also noted that future occupiers/owners of this property would be aware of the parking layout and potential impacts prior to living there.

Policy DE3 has a guideline for garden sizes to be at least 55 square metres, the proposed layout shows that this is achievable albeit that the garden would partially be under the protected trees on the eastern boundary.

On balance, the proposal is deemed to comply with Policy DE3 of the Local Plan.

4. Other Considerations

Ecology

This reserved matters application does not result in any further impact on ecology.

Transport and access

Access details have been approved prior to the submission of this application. Highways have advised that the turning area within the site is not in accordance with the Torbay Highway Design Guide. As such the internal road could not be adopted. However in this instance the applicant wishes for part of the internal road to be private.

S106

A section 106 agreement was completed as part of the Outline application (P/2015/0097).

Community Infrastructure Levy

As the Outline application was approved prior to the adoption of CIL, the legal agreement entered into above is the means for obtaining contributions in relation to the development.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and

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

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

EIA

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

Proactive Working

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

Conclusions

The proposal is considered to be acceptable for conditional approval, having regard to the Local Plan, and all other material considerations.

Conditions

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

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

2. 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.

3. Prior to the commencement of development a detailed arboricultural method statement, which shall include a tree protection plan, shall be submitted to the Council for its approval in writing. The approved arboricultural method statement and tree protection measures shall be carried out in full during the construction phase. This information is required prior to the commencement of development in order to ensure that the trees protected by a Tree Preservation Order are damaged during the construction phase.

Reason: In order to ensure no detrimental impact to the protected trees and in the interests of the amenities of the area and to accord with policy C1 of the Torbay Local Plan 2012-2030.

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

Reason: In interests of visual and local amenity and in accordance with Policies C1, DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to the proposed dwelling within the application site, and no outbuildings or other means of enclosures shall be erected within the garden area of this dwelling house, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

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

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

7. The dwelling hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the approved plans has been provided in full. These elements shall thereafter be retained for the use of the associated dwellings 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.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

TA2 - Development access

TA3 - Parking requirements

H1 - New housing on identified sites

C1 - Countryside and the rural economy

C4 - Trees, hedgerows and natural landscape

BH3 – Delivery of new homes

BH4 – Housing development (brownfield)

BH5 - Good design

E7 – Protecting semi-natural and other landscape features