



Friday, 4 October 2019

PLANNING COMMITTEE

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

Monday, 14 October 2019

commencing at **5.30 pm**

The meeting will be held in the Riviera International Conference Centre,
Chestnut Avenue, Torquay, TQ2 5LZ

Members of the Committee

Councillor Pentney (Chairman)

Councillor Barrand

Councillor Hill

Councillor Brown

Councillor Barbara Lewis

Councillor Dart

Councillor Manning

Councillor Dudley

Councillor Jacqueline Thomas

A prosperous and healthy Torbay

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

Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR
01803 207087

Email: governance.support@torbay.gov.uk

www.torbay.gov.uk

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 meeting of this Committee held on 30 September 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. **Land South Of Yalberton Road, (Yannon's Farm), Paignton (P/2019/0173)** (Pages 6 - 32)
Reserved matters application pursuant to application P/2014/0983/MOA, as amended by P/2019/0605, for the construction of 191 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure.

6. **Wolverton And Mowbray, Asheldon Road, Torquay (P/2019/0323)** (Pages 33 - 51)
Conversion to seven apartments, minor demolition and alterations, and formation of one dwelling to the rear, together with associated works (As revised by plans received 09.08.2019).

7. **Land To The North Of Totnes Road, Collaton St Mary, Paignton (P/2019/0604)** (Pages 52 - 91)
Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road
8. **Shelley Court Hotel, 29 Croft Road, Torquay (P/2019/0337)** (Pages 92 - 116)
Change of use, regeneration, extension and alterations to the former hotel to create 10 one- and two-bedroom apartments and 1 house.
9. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
10. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 9 October 2019. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Minutes of the Planning Committee

30 September 2019

-: Present :-

Councillor Pentney (Chairman)

Councillors Barrand, Brown, Barbara Lewis, Manning, Doggett, Chris Lewis
and Mandy Darling

(Also in attendance: Councillors Morey, Amil, Bye, Long and Loxton)

37. Apologies for absence

In accordance with the wishes of the Liberal Democrat Group, the membership of the meeting had been amended for this meeting by including Councillor Mandy Darling instead of Councillor Dudley.

38. Minutes

The minutes of the Committee held on 9 September 2019 were confirmed as a correct record and signed by the Chairman.

39. Corbyn Head Hotel, Torbay Road, Torquay (P/2019/0699)

The Committee considered an application for demolition of existing hotel and formation of new hotel with ancillary facilities.

Updates to the submitted report (since publication) were reported by the Case Officer, as follows:

- The number of representations (objections) increased by 20 (546 representations and 526 objections).
- Additional items to be added to the summary list of objections:
 - The proposal's impact on ecology and the adequacy of the Habitats Regulations Assessment undertaken;
 - Previous Council and appeal decisions at nearby sites indicate that the proposal is not acceptable in visual terms;
 - The proposal continues to be unacceptable in relation to neighbouring amenity and other respects previously mentioned and now listed;
 - Continued inadequacy and highway safety implications of the proposed loading bay and access arrangements.
- A solicitor's letter received on behalf of the Torquay Neighbourhood Plan Forum and the Cockington, Chelston, and Livermead Community Partnership was circulated to Members one week ago for their direct

consideration and has been taken into consideration as part of the assessment exercise.

- The Torquay Neighbourhood Plan Forum has requested that their comments in relation to the need for a right-hand turn filter lane along Torbay Road and the inadequacy of the highway capacity to accommodate the development should be specifically listed under their representation, and the report is hereby updated accordingly.
- P.32 – the paragraph (including quotation) beginning “The Torquay Neighbourhood” should be deleted and replaced with the following:

The Torquay Neighbourhood Plan Forum has referred to a previous Council decision to refuse planning permission at the neighbouring site of Seajay for the creation of a roof terrace, and the fact that a subsequent appeal was dismissed, owing to the proposal’s visual impact. Similar decisions were reached at Oversands for the same type of development. These decisions were reached between 2009 and 2011.

The following paragraph should see the insertion of “Seajay and” prior to the word “Oversands”.

- P.36 – “1.8mm” should be replaced with “1.8m”.

Prior to the meeting, Members of the Development Management Committee were able to visit the site and written representations were available on the Council’s Website. At the meeting John Gerard, June Pierce and Leon Butler addressed the Committee against the application. Martin Rogers, Derek Elliott and Alan Denby address the meeting in support of the application. In accordance with Standing Order B4.1 Councillors Amil and Bye addressed the Committee. During their verbal presentation Leon Butler and Derek Elliott also provided a PowerPoint presentation.

A recorded vote was taken on the recommendation. The voting was taken by roll call as follows: For: Councillors Mandy Darling, Hill, Barbara Lewis, Chris Lewis and Pentney (5). Against: Councillors Barrand, Brown, Doggett and Manning (4).

Resolved:

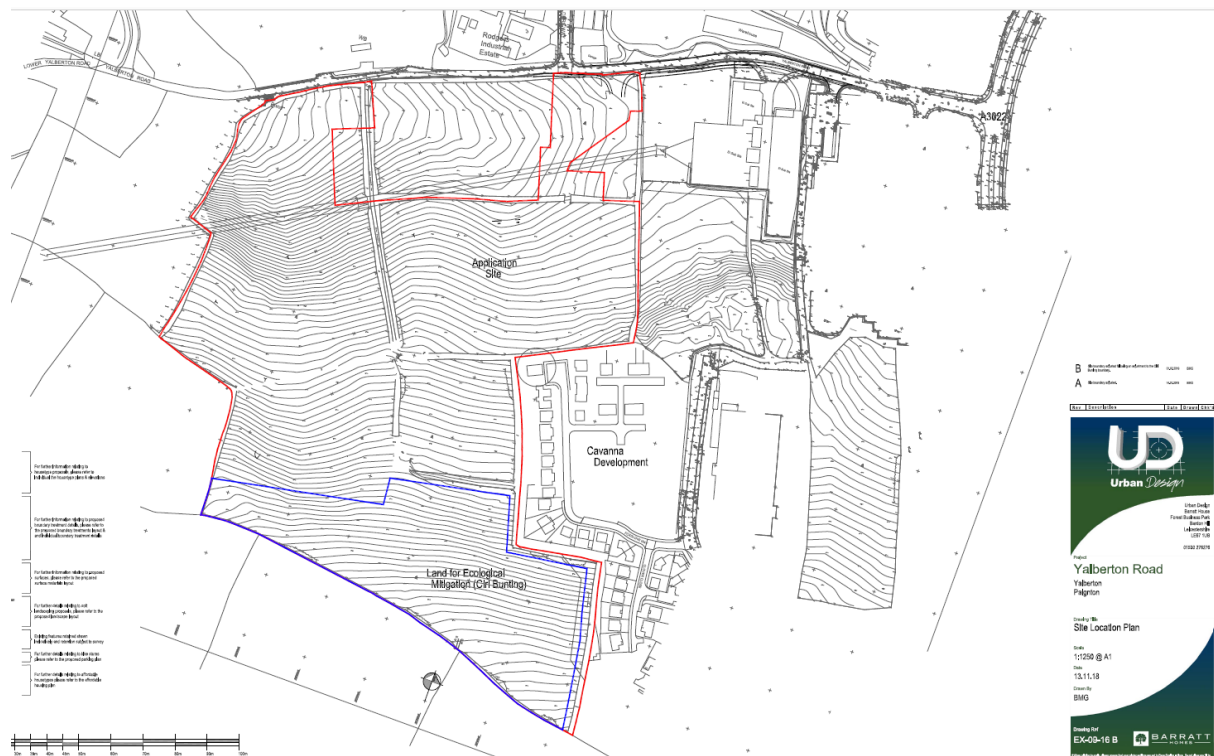
That the application be approved subject to the completion of a Section 106 Agreement to secure financial contributions towards sustainable transport and local parking restrictions, and compliance with the conditions detailed in the submitted Report. The final drafting and addition of conditions, along with the negotiation and completion of the Section 106 Agreement, be delegated to the Assistant Director for Planning and Transport.

Chairman



Application Site Address	Land South Of Yalberton Road, (Yannon's Farm), Paignton
Proposal	Reserved matters application pursuant to application P/2014/0983/MOA, as amended by P/2019/0605, for the construction of 191 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure.
Application Number	P/2019/0173
Applicant	Barratt Homes (Exeter) Ltd
Agent	LRM Planning Ltd
Date Application Valid	12.03.2019
Decision Due date	11.06.2019
Extension of Time Date	
Recommendation	Approval subject to the conditions outlined at the end of the report, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport
Reason for Referral to Planning Committee	Major Reserved Matters Application
Planning Case Officer	Mr. Alexis Moran

Location Plan –



Site Details

The site is located to the west of Brixham Road on the outskirts of Paignton. The site is 8.17ha in area. The majority of the site is located within the Future Growth Area of the Local Plan, except for the part of the site which is set aside for ecological amenity space and the south-western part of the residential proposal.

The land comprises agricultural fields bounded by hedgerows. In addition, overhead power lines cross the northern part of the residential area of the site. The site has a sloping topography with a north facing slope that rises by around 50 metres to a high point near the top of the hill located to the southeast. A field located near to the top of this hill lies outside of the application site but is proposed as a 'high meadow for ecological mitigation and biodiversity' habitat for one pair of Cirl Buntings.

The site is bounded by Yalberton Road to the north; the Western Power electricity station and Yannons Farm development site to the east; agricultural fields to the south (beyond which is South Devon College); and open countryside to the west. To the north of Yalberton Road is Yalberton Tor Quarry, which is allocated as a waste site in the Local Plan, and the Rodgers/Yalberton industrial estates.

The majority of the site is located within the Future Growth Area for housing and related development in the Local Plan. The land to the south and west of the main site is designated as Countryside Zone.

The whole site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head; the northwest corner of the main site is also within a strategic flyway. The whole site is located with the Critical Drainage Area (CDA).

Description of Development

The proposal seeks reserved matters consent pursuant to outline permission P/2014/0983/MOA (amended by P/2018/0605), for the construction of 191 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. The outline permission(s) establish the acceptability of the proposal in principle, and in terms of the access arrangements. The reserved matters being sought are layout, scale, appearance and landscaping.

The submitted plans show a residential development to the north of the site with a parkland, including a playpark, a community orchard and an area of ecological mitigation for cirl buntings to the south of the site. There is also an area of public amenity space to the north-west of the site.

The proposed dwellings range in height from one storey to three storeys with the prevailing height being two storeys. Three apartment buildings are proposed which are made up of two, two and a half storey buildings and one three storey building, all of which are located to the east of the site.

Pre-Application Enquiry

N/A.

Relevant Planning Policy Context

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

Development Plan

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

Relevant Planning History

P/2019/0605 - Variation of Conditions relating to application P/2018/0977. Variations sought: P1 - replace approved plan 3010-005 B with plan EX-09-39, 4 - Rewording of condition, 6 - Remove references to 'buses'. PENDING CONSIDERATION

P/2018/0977 - Variation of condition P1 - amendments to plans & condition 24 - footway and road, to Major Planning Application P/2014/0983 (revised plans received 14.11.2018). APPROVED 07.12.2018.

P/2014/0983 - Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme). APPROVED 07.09.2018

Summary of Representations

Twenty objections to the scheme had been received at the point at which this report was written. The concerns raised are as follows.

1. - Highway capacity/traffic
2. - Flooding and drainage
- 3.- Impact on infrastructure
4. - Overdevelopment of the site and wider area
5. - Ecology/Cirl Bunting compensation
6. - Impact on privacy
7. - Failure to discharge conditions (although this is not necessary at the reserved matters stage)

Summary of Consultation Responses

Environment Agency – no objection

Historic England – no comment

Torbay Council Drainage Engineer – covered by a condition on the outline application

Strategic Transport – *The suitability of the access, has been the subject of applications, decisions, and agreements. It has been agreed that the highway along Yalberton Road will be widened with shared cycle/footpath provision and a contribution was sought in relation to the Brixham Road junction works which have been significantly completed. The detail for the Yalberton Road works is submitted within this application although it is noted that it has been approved previously.*

Spine Road / Bus Route width

Previously comments have recommended that this route is designed in a sufficient way to accommodate a bus route. The design guide recommends 6m wide for this. However, the access application as approved shows a width of 5.5m. What is also shown is a widening of the shared path from 2.5m to 3m. It is requested that the spine road so far as the bus is expect to travel along it, is provided at 6m wide with the shared path reduced to a consistent 2.5m.

Forward Visibility on bends

Some of the bends appear tight with restricted or limited forward visibility. I would welcome a plan being provided which clarifies the visibility that can be achieved with this layout in accordance with the Torbay Council Highways Design Guide for New Developments and/or Manual for Streets. Particular concern relates to the bend in the South East corner, adjacent to the outlined ramped access to the 'Cavanna' site but also concerns the bends outside plots 121, 160, and 178.

Forward Visibility through 'Pinch Point' feature

The S38 drawing indicates a grass verge through this section which would allow for suitable forward visibility. However, some of the other plans indicate trees on what is effectively a build out. The latter may not allow for adequate forward visibility on the key spine road and therefore clarity is sought about this.

Similarly on the northern boundary, there is another narrowing through the existing hedgerow that, due to the proximity with the bend could cause visibility issues. It is accepted that there are only 7 dwellings in this area but with emergency access here as well and the need for refuse vehicles to turn prior to and reverse through this section in order to remain on the public highway there is a concern.

Visitor parking in turning heads

There are concerns about how the parking in these locations will be managed and whether it will lead to the turning heads being blocked by parked vehicles. As such I recommend a revision to the layout to widen the footway to follow the typical kerb edge and remove these dedicated spaces. Outside Plot 152/3 this needs to be redesigned so that the pavement follows the bend as well, reducing the crossing width, but also sensitive to ensuring the front garden areas of the dwellings are provided appropriately and avoid 'pavement parking'.

Grass Verges

It is not Torbay Council's preference to adopt small areas of highway grass verge. These are difficult and ultimately costly to maintain. These should be maintained in a separate agreement, outside of the S38 details.

The grass verges also pose a concern with regards to creating a parking opportunity. The recommendation would be that there is a birds mouth style fence erected along the extent of the verge area to protect against this.

Parking Spaces

There are a number of points to raise about this.

Plot 106 – it appears very difficult for this plot to access their full driveway provision. Depending on the solution, it also appears likely that both plots 105 and 106 will create themselves an additional space end to end as they will be on the outside of the bend. This area needs better definition to clearly mark the kerb edge, gardens and parking for vehicles. The kerb edge should naturally follow the bend. Please note this bend is though, one where concern has been raised for the forward visibility.

Plot 192 – there is a difference between the various drawings outside this plot. The issues again is one of definition on the corner. This needs to be resolved similar to Plot 106.

Plots 1, 2 and 3 – the parking area for these plots appears slightly awkward and would benefit from reconsideration. Side by side parking is preferably to end to end and appears possible to provide in this location. Also, there is limited turning area for these and that needs to be reconsidered.

Plot 61 – there is no turning provision for the parking at this property. This needs to be reconsidered as it is not acceptable for them to have to reverse out onto the spine road at the start of the development.

Plots 37, 38, and 39 – these appear only to have 1 parking space per dwelling. In general I would not find this to be of significant concern, however, when considered with the point raised above regarding Plot 61, this is more of a concern as there is limited space for the turning of vehicles. I would recommend this area is reconsidered. There is concern for several plots, such as 5, 6, 7, 9 and 12 (and many others), not having sufficient space if a vehicle is parked to allow for refuse and cycles to be brought past from the storage area, typically to the rear of the property. Cycle and refuse storage must be accessible or will, ultimately, not be used by the occupiers. For instance at plot 58 this could be rectified with a small reduction of garden size for plots 56 and 57 and a path width set out alongside the plot 58 dwelling.

Additionally several plots have parking between walls or in confined spaces. These too would benefit from being wider to ensure they are accessible if it is possible to make that adjustment. I accept that currently we do not have any requirement or guidance to enforce against this.

Cycle Storage

As above, some of the plots have limited access to the cycle storage (and refuse storage). Plots 17 and 19 are of particular concern given the distance those occupiers have to access it. If it can be achieved with appropriate urban design it would be preferable for the cycle parking (and I assume refuse storage) to be closer to the front / entrance of the properties.

Shared Path

The shared path connects to the ramp but it is not clear if there is any provision for crossing the road at that point and the path does not continue along the southern side. This provision needs to be included. Suitable crossing points should be provided at all junctions and where paths end.

Emergency Access

Although the Council would not seek to adopt this alternative access, it is important that through condition and/or legal agreement, it is maintained in suitable order and that suitable surfacing is provided throughout its length. Additionally, it is not clear whether bollards are to be provided at the northern end as well as the southern, but this is recommended.

Access to 'Cavanna' site

There is an indication of the ramped access to be provided. This is of course necessary to meet the requirements of the other consent but in any case, further details of this will need to be provided. It is equally important that this link is required to be constructed in a timely manner. It is shown in an area, along with the path connecting to it, to be delivered in phase 1.

Access to 'WPD' site

The road is shown on the S38 drawing to be adopted right to the boundary. Other drawings submitted with the application do not show this. It is important that this is

constructed up to the boundary and provided for adoption to the Local Highway Authority. As with the ramped access, it is shown as being delivered in phase 1.

Materials

Colleagues have requested that, particularly on the early and central parts of the spine road, that block paving is not used. They are happy to consider alternative solutions with different materials or imprint. Depending on the appearance considerations of 'Planning' this may be something that a condition allows for final resolution of materials in these areas to be made with the Local Highway Authority through the appropriate agreement.

S38 drawings

It needs to be made clear that approval of planning consent, despite inclusion of S38 drawings, does not constitute consent or authorization under S38. A separate application will need to be made to the Local Highway Authority.

Bus Stops

It is welcomed that bus stop provision is indicated which could be provided at a later date. It would not be a requirement for this to be implemented until such time as a bus route was or could be provided. There is no provision indicated in the opposite direction and this would be welcomed as it will make the conversation with residents at a later point easier if there is an understanding of where the stop will be located. It is suggested this could be immediately opposite.

Electric Charging

The detailed layouts do not, so far as I can see, set out provision for electric charging facilities as required by the Local Plan.

I am content with the provision being a standard domestic socket located outside of the dwelling and adjacent to the parking spaces for that respective dwelling. I recognise that if the occupiers wish to install specific vehicle electric chargers they can do so under permitted development. I would therefore request that if any restrictions on permitted development are considered, that it does not include the provisions for electric chargers.

SWW- No objection

Paignton Neighbourhood Forum - *The Forum has considered the above planning application and objects to the proposals because the details submitted do not accord with the outline consent granted for the following reasons:*

1. Surface water disposal

The Reserved matters layout and integral drainage pipe work proposed in the submitted application relies on surface water disposal going to a large open soakaway to the north west of the site. No satisfactory information is provided that demonstrates how the private management arrangement of the system will operate in perpetuity in accordance with the requirement of condition 13 of consent

P/2014/0983. Nor is there provision made in the Section 106 Agreement (29 August

2018) and Supplemental Agreement (5 December 2018) for dealing with the problem that will arise if for any reason the proposed private management arrangement ceases to operate and leads to an increase of present surface water flooding in the locality.

2. Impact on protected species

The Reserved matters layout and landscaping detail fails to accord with the outline consent that requires 'mitigation' proposals for 1 pair of Cirl Buntings on site and 5 pairs off site (in accordance with the Decision by Development Management

Committee on 9 April 2018 at Minute 76 and outline consent condition 25). Instead, the submitted application makes proposals for 1 pair on-site and 'compensation' payment for 5 pairs lost with no proposal included that confirms where or how 5 pairs off-site will be established nor be the subject of aftercare and long term maintenance as required by condition 25. The Reserved matters application indicates at paragraph 4 of the submitted 'Cirl Bunting Mitigation Scheme' (February 2019) that the off-site provision is detailed in the Section 106 Agreement. However, no such detail has been found in the Section 106 Agreement (29 August 2018) nor Supplemental Agreement (5 December 2018). Without this detail the full provision must be made on-site for 6 pairs to ensure satisfactory 'mitigation' as required.

3. Traffic impact

As implementation of the defined employment and residential parts of the outline consent area are being taken forward separately, it is not clear what provision has been made to require further improvement of the Yalberton Road / Brixham Road junction from the composite development in view of the concerns previously raised in the Forum's letter of 31 December 2014 when the outline application was first considered.

Housing Services - *Housing services are happy with location of the affordable housing units but we do have some concerns with the design for the wheelchair adapted units. The Council's specification is that when a property has two or more floors that the bedroom designed for a wheelchair user is provided on the ground floor. In the first instance we would ask if these changes can be incorporated into the current plans but as this may not be possible due to the current design we would ask that consideration is given to switching the 3 x wheelchair adapted units from two storey houses to flats in order for them to be fully accessible. We would also ask that as per the S106 that the tenure for these units are changed from Shared Ownership (as is currently showing) to either Social Rent or Affordable Rent.*

We are very much looking forward to all 58 affordable units completing which provide a great mix of bedroom numbers and tenures and will be providing much needed affordable housing for Torbay and its' residents.

Police Architectural Liaison Officer - *Following a review of the Presentation Layout, which contains the best level of detail for my purposes and the Secured by Design (SBD) statement, I am pleased to advise that many positive aspects from a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective have been factored in to the overall design and layout of the scheme but to assist further please find the following few additional points for consideration:-*

1. The back to back gardens are much supported from a security perspective but please ensure that all gates that lead to the rear of dwellings are capable of being locked from both sides, by means of a key for example, as this will enable rear gardens to be secured regardless of access or egress. The proposed latches and bolts for the gates are noted but these are likely to prevent the gate from being fully secured on egress.

2. The shared rear access paths between plots 15 & 16, 35 & 61, 42 & 43, 89 & 90 and 104 & 105 for example should also be gated. Robust, non-climbing, 'see through' iron style gates would work well in improving surveillance over the path and reduce the fear of crime for residents. The gates should be fitted so as to not create a recess and ideally have a coded or key operated lock fitted.

3. With regard to the multi-occupancy buildings please ensure that any shared external amenity space or designated smoking areas are set as far away from the building elevation as possible to prevent potential noise and nuisance issues for other residents.

Please note that the visitor door entry system for the apartments should have a visual monitor as well as an audio facility. Tradesperson buttons are no longer permitted for SBD developments due to an increase in crime and ASB as such consideration must be given to how mail will be delivered and the reading of utility meters. For further details or options please contact me.

PARKING

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and designed so it is convenient and practical to use, e.g. side by side parking as opposite to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere' that can introduce a source of conflict and rancor amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets. With reference to 'tandem' parking above, there is ever increasing evidence from new development in the county where this design of parking is not being embraced, perhaps due to being inconvenient or just awkward to use, seeing the 2nd (or 3rd) vehicle being parked elsewhere just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development, but this number is likely to be much reduced if the spaces are not being utilised. In addition to this the problems associated with tandem parking are further exacerbated when designed to the front of a garage or car port.

Natural England - As submitted, the application could have potential significant effects on greater horseshoe bats associated with the **South Hams Special Area of Conservation (SAC)**. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- Up-to-date greater horseshoe bat survey
- Light impact assessment
- Further analysis of collision and severance impacts

- *Comprehensive mitigation and avoidance plan*
- *Habitats Regulations Assessment*

Without this information, Natural England may need to object to the proposal.

Natural England have been re-consulted on updated survey information and provided with the Councils Habitat Regulation Assessment for consideration.

RSPB -

Updated comments

Thank you for offering to pay the cirl bunting compensation contribution of £437,500 to Torbay Council prior to works starting on the proposed access road should this application be approved (and the reserved matters application P/2019/0173 be approved). We support this proposal for earlier payment as it will enable Torbay Council to arrange for appropriate areas and types of habitat for 5 territories of cirl buntings to be secured and management implemented ideally before their existing habitat is destroyed, in accordance with good ecological practice (the s106 agreement for P/2014/0983 required compensation payment to be made prior to first occupation of any dwellings).

The delivery mechanism approved by Torbay Council for cirl bunting habitat compensation is set out in Appendix 5, part 2 of the Wildlife and development guidance note: cirl bunting (October 2017) and we trust the Council will put in place the necessary legal and other agreements with its cirl bunting compensation delivery agent Torbay Coast and Countryside Trust so the Council can invoice BDW for this earlier payment. I have copied in Damian Offer of TCCT. The RSPB would be happy to advise further, including location and detailed management prescriptions, timeframes for implementation and associated monitoring. It is necessary that management of this land delivers at least an additional 5 cirl bunting territories over and above any existing population on the compensation habitat. The RSPB has entered into a legal agreement with Teignbridge District Council so RSPB can deliver cirl bunting compensation habitat in that District at Ashill and, subject to obtaining the necessary permissions, it may be that we can provide a redacted copy of that legal agreement, if that may be helpful to your Council. We would appreciate sight of the legal agreement that your Council will make with TCCT over compensatory habitat provision relating to P/2014/0983 as we are keen to ensure a consistent and appropriately robust framework is adopted for such activities, particularly in view of biodiversity offsetting becoming mandatory and agreements of this nature becoming more commonplace.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Residential Development
2. Design and Visual Impact
3. Impact on Heritage Assets

4. Impact on Residential Amenity.
5. Impact on Highway Safety.
6. Ecology and Biodiversity
7. Drainage and Flood Risk

1. Principle of development

The principle of residential development of this site is established through the extant outline planning permission for up to 192 dwellings.

The application site is located within a wider Strategic Delivery Area (SDA), as designated in the Torbay Local Plan under Policy SS1, which identifies areas for the delivery of growth and change in Torbay for the period of the Local Plan. In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 of the Torbay Local Plan. The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 840 houses could be provided within the Brixham Road/Yalberton Future Growth Area over the plan period. Concomitantly the Paignton Neighbourhood Plan identifies the site as being a Future Growth Area.

This reserved matters application seeks consent for the proposal's appearance, landscaping, layout and scale.

2. Impact on Visual Amenity

Achieving good design is a central thread within government guidance and Part 12 of the NPPF "Achieving well-designed places" offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 offers that 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.

Local Plan Policy SS2 (TLP) states that development delivered within each of the Future Growth Areas must be integrated with existing communities, and reflect the landscape character of the area as informed by Torbay's Landscape Character Assessment (2010). Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. Policy SS11 (TLP) states in part that development should be of an appropriate type, scale, quality, mix and density in relation to its location. In terms of non-strategic policies Policy DE1 (TLP) outlines a number of factors towards securing development that is well-designed and that respects Torbay's special qualities. Further to these Local Plan policies Policy PNP1 (c) and (d) of the Paignton Neighbourhood Plan.

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938 (as

amended by P/2018/0977). This condition states that the submitted reserved matters shall be consistent with the approved drawing referenced 3445/203/M).

The layout submitted is broadly based on this approved plan with the dwellings made up of perimeter blocks with a spine of green infrastructure through the site and areas of amenity space to the south and north-west.

The area designated for employment use to the north of the site does not form part of this application however the access includes a spur road to allow future development of this site.

Condition 10 of the outline permission P/2014/0938 (as amended by P/2018/0977), required the reserve matters application to be accompanied by a Design Code setting out the design parameters for the streets, the setting out of development blocks, green infrastructure, materials and design parameters in the development.

The perimeter block form provides a clear distinction between the public and private realm. All houses will face onto either a highway or a private drive in order to maximise surveillance and overlooking while gardens face inwards.

The treatment of building frontages provide an active frontage with minimal use of blank walls, particularly in prominent locations and corners.

The use of a variety of house types in terms of design provides interest in the street scene and aids in providing identity to the development site.

The facing materials proposed are made up of red brick, light coloured render with concrete roof tiles. The palette of materials is considered to reflect the local vernacular and are considered to be acceptable, the use of a mix of render and brick buildings provides some contrast between properties in order to provide identity between properties.

Bearing the above points in mind the proposal is deemed to comply with Policy DE1 (Design) of the Local Plan which, amongst other criteria, requires development to be uncluttered and attractive, acknowledge local character and develop distinctive character in townscape and landscape terms, relate to the surrounding built environment in terms of scale, height and massing and have a clear urban structure and grain that integrates with the surrounding context.

The proposal is for the provision of 191 residential dwellings and the development would achieve an average density of approximately 23.4 dwellings per hectare over the whole application site. The net developable area, (i.e. the area in which the residential dwellings are to be sited) of the site is 4.39ha, which equates to a housing density of 39.7dwellings per hectare.

This relates well to the existing density of development to the south of the site, and also accounts for the topography and retention of significant areas of mitigation and open space.

The proposed development seeks to respect the existing character of the area in terms of design and with regard to the palette of materials proposed.

Safe pedestrian routes will be provided throughout the site, through the use of footpaths, shared surface roads and private drives.

The fifty-seven affordable units would be provided largely to the north, north-west and north-east of the site, housing services have confirmed that this layout is acceptable.

A public amenity area, playground and community orchard are proposed to the south of the development. There is also an area of amenity land to the north-west of the site.

There is a strong spine of green infrastructure through the middle of the site from north to south which consists of parallel hedgerows either side of a pedestrian lane. The vast majority of the existing field boundary hedges are to be retained and reinforced. New hedges are to be used as boundary treatments to the fronts of properties and new trees are proposed throughout the development including a number of on street trees which aid in breaking up the urban appearance of the houses and driveways.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form appears to respond effectively to the topography of the site and is reasonably consistent with more recent development in the area.

Given its position, landscaping, and design within the topography of the site, it is considered that the scheme would have limited visual effects on the more open rural areas beyond the site to the west.

It is considered that the proposed appearance, landscaping, layout and scale would not result in unacceptable harm to the character of the area. Based on the information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, SS11, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP21 of the Paignton Neighbourhood Plan and the NPPF.

3. Impact on Heritage Assets

The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

In terms of the Development Plan it is stated that development proposals should have

special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The site is not within a conservation area and the closest listed building is the Grade II listed *Yalberton Tor Cottage* which is some 260m from the closest residential dwelling proposed. Policy HE1 of the Local Plan advises that development proposals should have special regard to the desirability of preserving any listed building and its setting.

In terms of context around the listed building, the rural character and setting is largely retained. In this instance, given the distance between the Listed Building and the application site, it is not considered that the proposal would affect the setting of the Grade II Listed Building.

In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

4. Impact on 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 closest of which are to the south of the application site. The Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1.

The construction phase will naturally result in some temporary impacts however the outline permission includes a condition requiring the submission of a Construction Method Statement which includes a restriction on the hours of construction and requires details of delivery and construction movement and parking to be submitted and approved by the Local Planning Authority prior to development.

The submitted phasing plan for the development identifies the site compound and material storage area as being located to south-eastern boundary of the residential aspect of the site, which is adjacent to the rear of properties on Foxglove Way which is well screened by an existing hedgerow. Although this is likely to cause some issues during the construction phase as previously discussed, the hours and days of construction works will be controlled by the requirement to submit and comply with a Construction Method Statement.

The properties to the south-eastern edge of the site (plots 183-192) would back on to the boundary hedge between this development and the rear of the properties of Foxglove Way. The distance between the rears of plots 183-192 and the properties on Foxglove Way is approximately 30 metres which is considered to be a sufficient separation distance so as to not cause unacceptable levels of overlooking/intervisibility or loss of privacy. The two sites are also separated by an existing mature hedgerow which would aid in limiting any issues of loss of privacy.

The apartment building which makes up plots 31-34 is located on the eastern boundary of the site would share a side-elevation to side-elevation relationship with the northernmost property of the Foxglove Way development to the south of the site. The distance between the two side-elevations is approximately 15 metres, with the application site being some 2 metres lower than the site to the south. Due to the side-to-side relationship, the distance between properties, and the difference in levels, this relationship is considered to be acceptable.

The area to the rear of the apartment building of plots 31-34 is to be used as a parking area with 32 spaces proposed. This has the potential to cause noise and disturbance through vehicle movements and car headlights shining through windows of properties in the development to the south. However, there is a difference of approximately 2 metres between the site to the south and the car parking area proposed by this application as well as a close-boarded fence of 1.8 metres in height on the boundary. Bearing these mitigating points in mind, it is considered that the car parking area would have an acceptable impact on the amenity of occupiers of dwellings to the south.

The vast majority of properties on the site are two storeys in height with two being two-and-a-half storeys and one being three storeys, all three of these are located on the eastern boundary.

In general, the external amenity areas for the properties accord with the requirements of Policy DE3 (TLP) and there are sufficient cycle and bin storage areas. All of the proposed dwellings comply with the internal space standards identified in the Local Plan.

The outline permission includes a noise mitigation condition requiring a scheme of sound attenuation works to be submitted to, and approved in writing by, the local planning authority, to ensure future occupants of the proposed dwellings are suitably protected against noise from the Yalberton Tor Quarry allocated waste site.

The properties to south of the proposed employment site (which forms part of the same outline application site as this application) would be well-screened from the employment land development thanks to the existing mature hedgerow boundary between the two sites. The approved use of the employment land is for B1 (business) and B8 (storage and distribution) which by their nature are unlikely to cause future issues to the amenity of future occupiers of the residential properties.

There would be some shading from existing trees to the rear gardens of some properties to the eastern and western boundaries of the site, however this is not considered to be sufficient enough to result in an unacceptable impact on the amenity of future occupiers. The trees are outside of the residential curtilages which prevents them from being removed by future occupiers. To help mitigate the impact of the shading, tree T33 and tree groups G35 and G36 are to be crown-lifted to 5m to help increase ambient light levels to nearby gardens.

The proposal provides sufficient parking spaces and garages for all of the non-adaptable living units, the two adaptable living units have one space per dwelling.

In summary the proposal is deemed to provide a satisfactory form of development in terms of protecting the amenities of adjacent and future occupiers, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan.

5. Impact on Highway Safety

The NPPF guides that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that *a)* appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; *b)* safe and suitable access to the site can be achieved for all users; and *c)* any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) 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.

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 Paignton Neighbourhood Plan is largely silent on access and highway matters beyond guiding that appropriate infrastructure should be in place for development, that sustainable modes should be encouraged, and that suitable parking and cycle facilities should be provided within residential development.

The suitability of the access has been the subject of applications, decisions, and agreements. It has been agreed that the highway along Yalberton Road will be widened with shared cycle/footpath provision and a contribution was sought in relation to the Brixham Road junction works which have been significantly completed. The detail for the Yalberton Road works is submitted within this application although it is noted that it has been approved previously.

Highways have made comments on minor alterations to the infrastructure layout within the site which they consider necessary and the applicant has been advised of these. Subject to the submission revised plans which overcome these concerns raised by highways, the proposal is considered to be acceptable.

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, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

6. Ecology & 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 habitats within the site boundary comprise poor semi-improved grassland fields bound and divided by species rich and species poor hedgerows. A stone barn is present, supporting barn owl and roosting bats. The site is of value for breeding ciril buntings and is within a sustenance zone for greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC).

Notwithstanding the Habitat Regulation Assessment (HRA) undertaken at the outline stage, an HRA for the site has been undertaken by Torbay Council for this reserved matters application. It was concluded that there would be a Likely Significant Effect on greater horseshoe bat features and subsequently may affect the integrity of the South Hams Special Area of Conservation (SAC) alone or in combination with other proposals or projects. Therefore a Stage 2 Appropriate Assessment was required. This concluded that subject to various mitigation measures within the submitted information and subject to additional conditions, there would be no likely effect on the South Hams Special Area of Conservation (SAC) .

The applicant is required by the s106 agreement to provide an off-site bat barn, the location of which is specified in the agreement.

The s.106 agreement for the outline permission requires a contribution of £437,500 towards alternative habitat for 5 pairs of ciril bunting which the applicant has now paid. This contribution is to be used by the Torbay Coast and Countryside Trust to provide and manage the habitat for the five pairs of ciril bunting.

In accordance with the outline permission and the s.106 agreement, the proposal includes an area of 2.5ha to the south of the site to provide a habitat for one pair of ciril buntings. The habitat creation and management will take place in line with current guidance (ordinarily at least 2.5ha suitable habitat, made up of: 1.3ha of rough grassland, 0.2ha of hedge/scrub and 1ha of spring barley). The s.106 agreement agreed to at the outline application stage includes a contribution to monitor the management of this land over a period of twenty-five years.

An informal path is proposed along the eastern boundary of the area, providing a route to the adjacent development, which will consist of a 1m wide mown path at least 2m from the base of the hedgerows. Information boards are to be installed to inform residents of the importance of the mitigation land for protecting ciril buntings.

In accordance with condition 16 of the outline permission a temporary barn owl box is to be located on a mature tree in the south-west corner of the site which is to be

positioned at least 3 metres above ground level.

In accordance with condition 7 of the outline permission a permanent bat box is to be provided within the existing barn building to the south of the site.

As the site is over 5ha in area an Environment Impact Assessment screening was undertaken, the result of this was that the proposal did not require an EIA.

In light of the foregoing, the proposal's ecological impacts are considered acceptable, having regard to Policy C4 and NC1 of the Torbay Local Plan.

In terms of trees, the proposal would result in the loss of eight trees, three of which show signs of dieback, the tree loss has been limited through appropriate design with the loss of the majority of features located towards the centre of the site. There are no tree protection orders (TPO) on the site and the site is not located within a conservation area.

Two mature sycamore and one lime (T42, T43 and T44) of significant size are located to the northwest of the Site. These trees form a prominent feature along Yalberton Road.

A tree planting strategy is to be implemented during the landscape phase of the development which will compensate for any tree loss as well as enhance the arboricultural value of the site.

The proposed buildings are of sufficient distance from the retained trees so as not to impose any potential future pressure. However, future occupants of plots 142-146 and 149-151 may wish to prune or manage tree T33 and tree groups G35 and G36 to reduce their shading impact on the gardens. To mitigate this, the trees have been kept outside of the ownership of the dwellings.

It is considered that the development should be conditioned to be undertaken in accordance with the submitted arboricultural method statement and arboricultural impact assessment which includes details of tree protection measures during the construction phase.

7. Flood Risk and Drainage

Comments in objection and from the Paignton Neighbourhood Forum are noted, however a condition relating to the submission of drainage details prior to the commencement of development was added to the Outline permission P/2014/0938 (as amended by P/2018/0977). As such these details will be provided to the Council as part of a separate assessment exercise. Sewerage details were also detailed as part of the outline permission as follows:

a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in

advance and executed to accommodate the discharge of foul sewage from the development; and

b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).

8. Other Considerations

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The site is identified for housing within the Development Plan and is hence broadly considered a sustainable site for future residential development.

The proposal is supported by a travel plan that seeks to provide the parameters to help the development minimise the use of the private car. This for example includes providing cycle parking facilities for all dwellings and good-quality pedestrian and cycle networks within the development.

Policies ES1 of the Local Plan and PNP1 of the Paignton Neighbourhood Plan state that all major development proposals should make it clear how low-carbon design has been achieved, and how the sequential energy hierarchy has been applied in doing so. That new development should connect to a district heating network where there are existing proposals or schemes and that site renewable energy generation is required to achieve 20% of the subsequent in-use energy requirements.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduce CO2 emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures, including the use of solar panels.

EIA/HRA

EIA:

As the site is over 5ha in area an Environment Impact Assessment screening was undertaken, the result of this was that the proposal did not require an EIA.

HRA:

The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment / Appropriate Assessment (AA) has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC subject to the mitigation measures proposed within the Appropriate Assessment. Natural England have been consulted on the HRA & AA.

The outline application included a condition regarding the submission of lighting design details to maintain “dark areas” on the site. These details have been submitted as part of this application and they are considered to be acceptable.

Planning Balance

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

The scale and layout of the development are considered to comfortably sit within the site while providing generous public open space and ecological mitigation land.

The appearance of the dwellings would be in keeping with the character of the area and the palette of materials would match the predominant style of Paignton. The proposal includes the addition of several trees, including a community orchard, and proposes new boundary hedges to the fronts of properties which help to provide a net gain to the existing landscaping. It is acknowledged that there are potential impacts upon greater horseshoe bats but these are not unacceptable, subject to the planning conditions.

This reserved matters application is deemed to comply with the requirements of the outline permission in terms of the residential aspect of 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.

Local Finance Considerations

S.106 Agreement

The outline permission secured planning contributions towards education, lifelong learning, greenspace and recreation, sustainable transport, waste management, habitat monitoring and contributions towards improvements to the Brixham Road and Yalberton Road. This also included a payment of £437,500 towards alternative habitat for 5 pairs of curlew which the applicant has now paid.

Affordable Housing

Affordable housing provision for this development has been agreed in accordance with

Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of 30+ dwellings that 30% should be affordable housing.

At 30% the scheme is expected to secure 58 affordable units. In terms of the affordable housing tenure, the s.106 agreement signed as part of the outline permission requires 33% of the affordable housing units to be social rent (19 dwellings), 33% to be affordable rent (19 dwellings) and the remainder to be equity share dwellings (20 dwellings). Three dwellings (5% of the affordable housing provision) have been designed to adaptable housing standards. As a result of comments from Housing Services the type and tenure of the units has been amended during the application stage.

The location of the affordable units has been carefully considered to ensure that, in line with the Planning Contributions and Affordable Housing SPD (February 2017), there isn't an unacceptable clustering (i.e. a cluster of more than 24 dwellings).

The applicant will build and transfer the affordable housing elements of the proposed development to a Registered Provider in line with the terms outlined within the Section 106 agreement.

Conclusions and Reasons for Decision

The site is identified for housing within the Development Plan and the proposal is consistent with the approved outline application for the site.

Key public concerns regarding the impact upon the Greater Horseshoe Bats are resolved through mitigation within the development and conditions, as are concerns with Cirl Buntings. The proposal includes improved green infrastructure and additional tree planting. Issues with regards to drainage and sewerage were addressed by conditions as part of the outline permission.

In-line with the above conclusions, and the detail contained within this report, the proposals are considered to be in accordance with the provisions of the Development Plan. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval.

The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Approval subject to the conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;

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, including the addition of any necessary further planning conditions or obligations.

Conditions

1. In accordance with LEMP

The development shall be carried out in strict accordance with the approved Landscape and Ecology Management Plan (Reference: 0733-LEMP-FM, Received: 30th August 2019).

Reason: To ensure that the development duly considers protected species and important habitats, in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

2. Long term maintenance of LEMP

Prior to occupation of the first dwelling of the development hereby approved, a long term Landscape and Ecology Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which will describe how the site will be managed in perpetuity. This information shall include:

- a) Details of long term Landscape and Ecology Management
- b) Details of the body or organisation responsible for implementation of the plan.
- c) On-going monitoring and remedial measures for biodiversity features included in the LEMP.
- d) 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 amenity and biodiversity in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030, and guidance within the NPPF.

3. In accordance with CEMP

The development shall not be carried out otherwise than in strict accordance with the Construction Environmental Management Plan (Reference: P2019-0173-1, Received 08th February 2019).

Reason: To ensure that the development duly considers protected species and important habitats, in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

4. In accordance with Greater Horseshoe Bat Monitoring Strategy

The approved Greater Horseshoe Bat Monitoring Strategy shall be adhered to. A report describing the results of the monitoring shall be submitted to the local planning authority at intervals as identified in the Strategy. The report shall also set out where the results from monitoring show that site conditions are changing and consequently

how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning bat commuting routes associated with the originally approved scheme.

Reason: To ensure that the development duly considers protected species in accordance with Policies NC1 of the Torbay Local Plan 2012-2030.

5. In accordance with Lighting Impact Assessment

The development shall accord with the approved Lighting Impact Assessment (reference: 4094 Rev 1 (Update), received 30.08.2019) for the life of the development. Should any of the external lighting become damaged and need replacement, it shall be replaced with external lighting of the same type and specification. No other external lighting shall be provided, including outdoor security lighting.

Reason: To ensure that the development duly considers protected species in accordance with Policies NC1 of the Torbay Local Plan 2012-2030.

6. Onsite Cirl Bunting Mitigation and Management

The development shall be undertaken in strict accordance with the approved Cirl Bunting Mitigation and Management Scheme (reference 0733-CLB-MW, received 30.08.2019).

Reason: In the interests of the amenities of the area and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

7. Tree Protection Measures

The development shall be undertaken in strict accordance with the measures in the approved arboricultural impact assessment and arboricultural method statement which includes the implementation of tree and hedgerow protection measures throughout the construction phase of the development.

Reason: To ensure trees are protected in the interests of biodiversity and visual amenity in accordance with policies 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.

8. Parking Implementation

Prior to the occupation of the dwellings hereby approved, their associated car parking spaces, as shown on the approved layout plan, shall be provided and thereafter made permanently available for the use of the associated properties.

Reason: to ensure all properties have dedicated parking facilities and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

9. Soft Landscaping Implementation

All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the dwellings hereby approved, or at such other time as agreed by the Local Planning Authority in writing. 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 available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with Policies SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

10. Hard Landscaping Implementation

Prior to the first occupation of the development hereby permitted, the scheme of hard landscaping treatment shall be fully installed in accordance with the approved plans. Once provided, the agreed hard landscaping 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 Torbay Local Plan 2012-2030.

11. Materials

The development hereby approved shall be constructed in full accordance with the materials specified on the approved plans.

Once constructed no further changes to the masonry finish including colour shall be permitted without the prior consent of the Local Planning Authority.

Reason: To ensure a satisfactory form of development and in accordance with the requirements of policy DE1 of the Torbay Local Plan 2012-2030.

12. Implementation of refuse facilities

Prior to the first use of the development hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided. 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 Torbay Local Plan 2012-2030.

13. Implementation of bicycle storage

Prior to the first use of the development hereby approved, bicycle storage shall be provided in accordance with details that shall previously have been submitted to and approved in writing by the Local Planning Authority. The bicycle storage shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan 2012-2030.

14. Construction Method Statement

The development shall be undertaken in strict accordance with the approved construction method statement at all times.

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.

15. Removal of PD for gates, walls, or other means of enclosure

Notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 2015 (or any order revoking or re-enacting that order with or without modification), 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 order to protect proposed boundary hedges in the interests of protected species in accordance with Policies DE1, DE3 & NC1 of the Torbay Local Plan 2012-2030.

16. Permanent Barn Owl Box

In accordance with the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEcIA-FM revision 1, received 30.08.2019) provision of a permanent barn owl box, in the location specified in the aforementioned document, shall be made prior to the first occupation of any of the dwellings hereby approved. The permanent barn owl box shall be retained in the approved location at all times thereafter.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

17. Temporary Barn Owl Box

In accordance with the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEcIA-FM revision 1, received 30.08.2019) provision of a temporary barn owl box, in the location specified in the aforementioned document, shall be made prior to next bird breeding season following the granting of this permission.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

18. Boundary Treatment

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

Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

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

19. Bird Boxes

Notwithstanding the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEcIA-FM revision 1, received 30.08.2019) the residential development hereby approved shall make provision to an overall ratio of one integral nestbox per dwelling.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

20. Play Area Provision

No more than 150 dwellings shall be occupied on the site until the play area has been completed in accordance with the approved plans and made available for use by the general public.

Reason: To ensure that the development provides a range of physical, social and green infrastructure, including local play spaces, in accordance with Policies SS7, SS9, SS11 and SC5 of the Torbay Local Plan 2012-2030 and LDD 8 Greenspace Strategy.

21. Biodiversity info pack

Biodiversity information packs shall be provided to all new occupiers of the dwellings hereby approved, with the packs at least including clear and precise information on the importance of maintaining the dark areas and corridors where no additional external lighting and no removal of boundary hedges will be allowed.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

22. Details of connection of access to site to the south

Prior to any development above damp proof course level, full details of the ramped access to the southern boundary of the site to link up with the site to the south shall be submitted to the Local Planning Authority for approval. The approved scheme shall be completed prior to any works being undertaken in phase 2 of the development as indicated in the approved phasing plan (referenced EX-09-36 version F, received 30.08.2019).

Reason: In interests of the amenity of future occupiers and in accordance with Policy DE1, and SS7 of the Torbay Local Plan 2012-2030.

Relevant Policies

SS2 - Future Growth Areas
SS3 - Presumption in favour of sustainable development
SS4 - The economy and employment
SS5 - Employment space
SS6 - Strategic transport improvements
SS7 - Infrastructure, phasing and delivery of employment
SS9 - Green Infrastructure
SS10 - Conservation and Historic Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low Carbon Development and Adaptation to Climate Change
W2 - Waste audit for major and significant waste generating developments
W3 - Existing waste management facilities in Torbay
SDP1 - Paignton
SDP3 - Paignton North and Western area
TA1 - Transport and accessibility
TA2 - Development access
DE3 - Development Amenity
ES1 - Energy
M3 - Preserving and safeguarding of limestone resources and key local building stone
C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape features
NC1 - Biodiversity and Geodiversity
H1 - Applications for new homes
H2 - Affordable Housing
DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
SC3 - Education, skills and local labour
HE1 – Listed Buildings



Application Site Address	Wolverton And Mowbray, Asheldon Road, Torquay TQ1 2QN
Proposal	Conversion to seven apartments, minor demolition and alterations, and formation of one dwelling to the rear, together with associated works (As revised by plans received 09.08.2019).
Application Number	P/2019/0323
Applicant	Mr Richard Hitchcock
Agent	Mr Jamie Allaway - Co Create Ltd
Date Application Valid	10.05.2019
Decision Due date	09.08.2019
Extension of Time Date	18.10.2019
Recommendation	Approval: Subject to the conditions detailed below. The final drafting of conditions and 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	Originally major development / level of objections
Planning Case Officer	Scott Jones

Location Plan –



Site Details

The site is the plot of a large detached Victorian Villa that currently holds two dwellings within it, which is set off Asheldon Road in Torquay. The Villa sits towards the front of the plot near to the adjacent highway with a large tree-lined garden to the rear. There are two vehicular access points, the main Villa (Wolverton) has a gravelled drive that runs along the side of the building adjacent to the principal elevation of the building. The dwelling in the former service wing (Mowbray) has a visually prominent flat-roofed garage and hardstand close to the adjacent highway where 5-6 metres of the front stone boundary wall has been removed.

In terms of heritage assets the site sits in the Lincombes Conservation Area and the draft appraisal map of the Conservation Area identifies the Villa as a key building and part of a building group of architectural importance or which make a significant contribution to the townscape. It is noted that the nearest listed building is the Grade 1 St Matthias Church to the south off Babbacombe Road, and the nearby Kent's Cavern Scheduled Ancient Monument / SSSI sits to the south west off Ilsham Road.

In terms of further designations the site is within a Critical Drainage Area.

Description of Development

Following the receipt of revised plans the application seeks full planning permission for the conversion of the existing Villa to form seven apartments (including limited demolition, alterations and extensions), together with the formation of a single-storey detached dwelling to the rear (reduced from four apartments provided over two floors) within the garden, and associated works to support the creation of these units.

In regard to the conversion of the Villa the proposal includes the removal of the existing modern extension that sits off the southwestern principal elevation and its replacement with a smaller extension, and the removal of the garage and porch extension that fronts the public highway, which is to be replaced with a smaller single-storey pitched-roof extension. The works linked to the conversion also include the replacement of modern windows with more traditional timber windows, the reinstatement of a section of the stone boundary wall to the front, and the provision of a glass-enclosed terrace to the rear over an existing sub-level extension.

The new building proposed to the rear has, following the receipt of revised plans, been reduced from a two-storey four-apartment block, to a single-storey flat-roofed dwelling, over a reduced footprint. The building is finished in zinc metal sheeting. The building is located towards the north-eastern boundary of the plot with its principal elevation facing south west across the width of the plot.

In regard to associated works within the plot (in addition to the proposed reinstatement of a section of the front boundary wall previously detailed) the proposal includes the provision of permeable pavements to the front and side of the Villa to provide a courtyard and shared parking facilities. There are 9 assigned car parking spaces, giving one per apartment and two per house, together with 2 visitor spaces. There is also a proposed bin store close to the vehicular entrance abutting the stone boundary wall and a proposed cycle store to the rear of the permeable parking area. Both structures are principally constructed in timber. The proposed layout includes the removal of a

number of small trees and shrubs, mainly towards the front of the plot, with the mature trees to the rear all maintained.

Relevant Planning Policy Context

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

Development Plan

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

Relevant Planning History

Pre-Application: DE/2018/0069 for the formation of fifteen dwellings to the rear: The principle of residential development in this location is considered acceptable however there are a number of concerns relating to the proposal. In the proposals current form, given the proposals unacceptable impact on the Conservation Area; the need to achieve adequate separation between buildings and suitable amenity space / parking / refuse storage areas, it appears that the proposal would result in an over development of the site, and that the number of units ought to be reduced to ensure these concerns are adequately addressed.

Applications: None.

Summary of Representations

A total of 20 public representations (including one from the Wellswood Community Partnership) have been submitted objecting to the original and revised scheme. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues/ Material Considerations section of this report.

The concerns raised in the objections are as follows:

Revised scheme:

- Presents only minor changes to the plan

Original scheme:

- Support the conversion of the original building but object to the garden

- development due to overdevelopment and the precedent
- Loss of light and overlooking from the front extension to Mowbray
- Impact upon the coach house from the 2-storey garden building
- Overdevelopment
- Impact upon the Conservation Area
- Traffic impact
- Insufficient parking
- 4 flats in the rear garden is out of character
- Impact upon pedestrians
- No need in Wellswood
- Scale of units too small

Summary of Consultation Responses

Torquay Neighbourhood Forum: The Torquay Neighbourhood Plan Forum object to the scheme. The new build structure within the grounds is out of character and over development. Parking provision appears inadequate and would compound the problems associated with vehicles parking in Asheldon Road. If the new build structure was removed and adequate parking put in place for the flats, then the conversion would be acceptable.

Highway Authority (update comments on the revised proposal for 8 units): On a 30mph road Highways would require a visibility splay of 43m x 2.4m, this does not appear to have been met. Should the applicant demonstrate that the speed readings are lower than 30mph, then the visibility arms can be reduced.

Torbay Council Drainage Engineer: Standing advice applies. Providing the developer has identified on the flood risk assessment that surface water drainage will discharge via a sustainable drainage system such as soakaways, no objections on drainage grounds to planning permission being granted providing the infiltration testing and soakaway design are carried out in accordance with BRE365 and the design is undertaken for 1 in 100 year storm event plus climate change. Recommended a condition in these circumstances as follows:

In accordance with the submitted flood risk assessment received, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Torbay Council Interim Heritage Officer (Update comment on revised scheme for 8 units): The site is located in the Lincombes Conservation Area where legislation requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. The Conservation Area appraisal map of the identifies the Villa the subject of this application as a key building and part of a building group of architectural importance or which make a significant contribution to the townscape.

The nearest listed building the Grade 1 Listed St Matthias Church is approximately 200m to the south west, and the nearby Kent's Cavern Scheduled Ancient Monument / SSSI is approximately 250m to the south east. Section 66 of the Listed Buildings Act requires to have special regard to the desirability of preserving (among the other things listed in that section) the setting of a listed building and similar provisions apply to the setting of Schedule Ancient Monuments. The new build element of the proposals would be well concealed from most public vantage points and there is no significant inter-visibility between the proposed new build development and listed building or scheduled ancient monument. Whilst the new build element would have a very minor impact upon the overall density of the area and introduces an element of modern design it would not cause any harm to the setting of the designated heritage assets.

With regard to the Conservation Area the proposals directly concerning the Villa are welcomed and should serve to enhance the character of the building and thus represents a positive impact which will also serve to enhance the character and appearance of the Conservation Area.

With regard to the development within the rear garden area, following significant negotiations this would now consist of a single storey dwelling. The proposed structure, would have a flat-roofed, will rise to a similar height to that of the adjacent stone boundary wall to the north, which will limit the potential for public views to the building from the highway across an adjacent residential plot. As the garden area is secluded, being well screened by a mixture of buildings, walls and trees, the modern form of the development will not, in my view, cause harm the wider character and appearance of the Conservation Area, especially from public vantage points.

In terms of design the approach is clearly to seek to make the dwelling a secondary buildings within the villas grounds. Its form is modern but modest, and the siting of the dwelling maintains the large open rear garden of the villa effectively. The plans illustrate some landscaping which will further serve to reduce the impact of the new dwelling unit.

In conclusion, it is considered that the revised proposals are well conceived and weighing together the proposed new dwelling with the enhancements to the Villa I consider that the proposal will serve to preserve the overall character and appearance of the special qualities of the Conservation Area, and from public vantage points in particular the scheme as negotiated would represent an enhancement to the Conservation Area.

Torbay Council Community Safety Team (Comment on revised scheme for 8 units): Confirm no objection to the above planning application subject to the inclusion of a construction management condition to secure that no development shall take place until a site specific Construction/Demolition Management Plan has been submitted to and been approved in writing by the Council that must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust.

Torbay Council Arboricultural Officer (Comment on revised scheme for 8 units): The removal of the hammer head is a positive step to reduce pressure on the root protection areas (RPAs) in the southern corner. The design and access statement

refers to 'Geocell' – a proprietary engineering solution to creating vehicular/pedestrian access over roots of trees and can be used in the right circumstances. The above have provided mitigation to concerns over direct pressure on the trees. The existing building does not appear to be unduly influenced by receiving sufficient direct sunlight however the proposed apartments will be in shade during the afternoon but the shade is cast by the existing building.

Conclusion: The revised proposal reduces the impact on the significant trees within the site.

Recommendation: The site is suitable on arboricultural merit with suitably worded conditions regarding a Tree Protection Plan to be submitted prior to commencement, and for an Arboricultural Method Statement (AMS) to be submitted prior to commencement - with particular reference (but not exclusive) to pre-commencement site meeting, signing on of contractors onto the AMS, use of root protection surfaces, site monitoring timings.

South West Water (Update comments on the revised proposal for 8 units): South West Water has no objection or comment.

Police Designing Out Crime Officer (Update comments on the revised proposal for 8 units): As the revised scheme is for less than 10 dwellings there is no further comment.

(Comments on the initial proposal for 11 units): The Police are unable to fully support the above application at this stage due to the proposed on-site parking provision. It is considered that 12 parking spaces for 11 dwellings seems wholly inadequate, exacerbated further given that the majority of the dwellings will have 2 bedrooms, which are likely to attract more than one vehicle per dwelling. It is respectfully requested that prior to determination the planning authority are satisfied that the level of parking for the proposed new development is considered sufficient when balanced against the proposed accommodation schedule for the site.

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority, advice is provided for the applicant to ensure compliance.

Key Issues/Material Considerations

Planning Officer Assessment

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

1. Principle of Residential Development

In terms of the principle of a residential use Policy H1 of The Local Plan states that proposals for new homes within the built-up area (as is the case in this instance) will be supported subject to consistency with other policies in the Local Plan.

In terms of The Neighbourhood Plan Policy TS4 states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. It furthers that development of greenfield sites can have an adverse impact through the loss of green space, so will be supported where it is an allocated site within The Neighbourhood Plan or the loss is required to meet the strategic economic policies within The Local Plan.

In light of the broad aspirations of Policies H1 and TS4 the principle of residential use on the site is considered acceptable, subject to broader policy considerations. It is noted that the site is well located for housing as it is in a sustainable location that has good access to shops and other services, transport links and recreational areas, within an area that already has a residential character. This context supports the principle of a residential use being acceptable.

2. Design and Visual Impact (including heritage considerations)

The site is located at the northern edge of the Lincombes Conservation Area and the draft appraisal map of the Conservation Area identifies the Villa as a key building and part of a building group of architectural importance or which make a significant contribution to the townscape. The nearest listed building is approximately 200m to the south west, which is the Grade 1 Listed St Matthias Church, and the nearby Kent's Cavern Scheduled Ancient Monument / SSSI is approximately 250m to the south east. In this instance it is important to consider whether the form of development would sit comfortably in its surrounds and would not adversely affect the setting of the Conservation Area as, due to the physical disconnect, the settings of nearby listed buildings or the Scheduled Ancient Monument would not be affected.

Policy SS10 of the Local Plan requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance. Policy TT2 of The Neighbourhood Plan cites that within designated Conservation Areas development proposals requiring consent will be supported in principle (subject to other policies in the Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment. In addition the more generic Policy TH8 cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. This is aligned with the general design policy within The Local Plan where Policy DE1 seeks development to be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.

The policies cited above are aligned with guidance contained within the NPPF which promotes good design and also seeks local planning authorities in decision making to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities

including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

In regard to the development relating to the existing Villa following the receipt of revised plans the scheme is considered to present a well-considered scheme of enhancement that would present a clear improvement to its current appearance and enhance the contribution it makes to the Conservation Area. A number of deleterious features are addressed as part of the conversion scheme, including the removal of two extensions and their replacement with smaller and far more appropriately formed and detailed additions. In regard to this the removal of the combined garage and porch-type additions adjacent to the road is a particular benefit as this ill-formed combination sits in a very prominent location and is possibly the most injurious modern element to the building. The replacing addition is smaller with appropriate timber windows under a slate pitched roof, and it will be partially screened by the reinstatement of the missing section of the stone boundary wall fronting the highway. Further beneficial works are principally the removal of UPVc casement windows and their replacement with more traditionally formed timber windows.

In regard to the development within the rear garden area the revised plans have reduced this element from a two-storey structure that would hold four apartments to a single storey dwelling over a smaller footprint. The reduced scale of building has largely addressed officer's previous concerns relating to the design and visual impact of this element. The structure, which is flat-roofed, will rise to a similar height to that of the adjacent stone boundary wall to the north, which will limit the potential for public views to the building from the highway across an adjacent residential plot. As the garden area is secluded, being well screened by a mixture of buildings, walls and trees, the modern form of the development will not be detrimental to the wider character and appearance of the Conservation Area.

It is noted that the Neighbourhood Forum oppose this element of the scheme and cite it as being out of character and over development. In regard to these concerns the building is set at the edge of the plot and will retain a large element of open garden, which will limit the impact upon the garden setting of the building, and it will not overdevelop what is a large Victorian plot. Its height is now limited and is akin to that of a domestic incidental building that dwellings are generally permitted to build without formal consent were it is for incidental purposes. Its scale is not considered to differ significantly from what is typical in terms of secondary buildings within domestic plots. Its form is modern and it clearly doesn't seek to mimic the host building or a more traditional form of garden building. This holds some tension with the Neighbourhood Plan aspiration for architecture to reflect the identity of its surroundings, but the impact is considered very limited within such a secluded and well screened context and the modern design does hold some merit as a contrasting element. It is considered that this aspect of the proposal, whilst having a number of visual merits, would result in less than substantial harm to the conservation area, and that it would be contrary to Policy TH8 of the Neighbourhood Plan, however, there are public benefits and other material considerations that outweigh this harm, namely the provision of housing to address the area's needs and the aforementioned visual enhancements to the villa building.

In regard to the associated development the parking is retained to the side of the Villa which enables the garden setting to the rear to be retained. The revised plans which removed three units from the scheme permitted a demonstrable improvement to the parking by removing a large turning head that was set past the rear building line of the Villa. In terms of detail the use of pavements throughout the parking area is welcomed over, for example, an expanse of tarmac, and this will somewhat soften the courtyard's appearance. Notwithstanding this the setting will be impacted slightly due to the removal of trees and shrubs to secure the parking, bin store etc, together with the amount of cars that will populate the area, as the current expanse of gravel sits quietly behind the established planting. In terms of other incidental development the bin and cycle stores are timber-based structures and will have little impact upon the character of the plot and its contribution to the Conservation Area.

When considering the proposal as a whole the scheme is considered well detailed and takes demonstrable steps to enhance the Villa by addressing the various deleterious features and proposing more harmonious additions and alterations, which as a package is considered to secure an enhancement in terms of its contribution to the character and appearance of the Conservation Area. This conclusion is aligned with the advice received from the Council's Interim Heritage Advisor. As such the proposal is considered substantially in accordance with design and heritage policies contained within the Development Plan and guidance contained within the NPPF, and where there is a deviation, other material considerations outweigh this.

The above conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

3. Residential Amenity

Policy DE3 of The Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Neighbourhood Plan is largely silent on the matter of amenity. The NPPF guides (Para 127) that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

In respect of future occupiers the internal living spaces are suitably scaled and accord with the minimum space standards outlined within Policy DE3. The units also all benefit from adequate outlook and will receive adequate levels of natural lighting to key living spaces. In regard to outdoor amenity space certain apartments at ground floor level will benefit from the use of terraces or a courtyard, but more broadly the proposal retains a large garden for communal use. This will provide outdoor space that accords with and exceeds the expectations outlined within Policy DE3 where apartments should, where possible, be afforded 10sqm of outdoor space either privately or as part of a larger communal offering. The dwelling to the rear would be provided with a private garden delineated by planting, which exceeds the 20sqm expected within the Neighbourhood Plan, which provides more up-to-date guidance than The Local Plan, which seeks 55sqm per dwelling. In terms of the broader residential elements the occupiers will be provided with on-site parking, and

designated cycle storage and waste storage facilities. These facilities complete what is considered to be a good standard of residential environment for future occupiers.

In respect of neighbouring amenity the conversion of the Villa, there are no additional windows proposed within the upper floor and the extensions proposed are modest in scale and single-storey in height. There would hence be no undue impact upon privacy, light or outlook afforded neighbouring occupiers. In regard to the dwelling proposed within the rear, the building would be single storey and would rise to a height closely aligned to that of the adjacent boundary wall with the neighbouring property (within 150mm of the wall height). The principal outlook would be south across the communal gardens away from this adjacent border. Due to its scale and context there would be no impact upon the amenities of neighbouring occupiers.

More generally 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 for existing occupiers in the area. The retention of the parking to the side helps retain the rear of the plot as a more tranquil area devoid of vehicular noise and light-spill from headlights.

Finally in terms of the temporary impacts of the construction phase there will naturally be some short-term impacts, however such impacts are not unusual and the effects can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition.

In terms of the standard of accommodation to be provided for future occupiers, and in terms of the proposal's impacts on neighbours, it is considered to be in accordance with Policies DE1 and DE3 of The Local Plan and guidance contained within the NPPF.

4. Impact on Highway Safety

Policy TA3 and Appendix F of The Local Plan provides key policy guidance for residential developments. Houses have an expected requirement of 2 spaces per dwelling and apartments have an expectation of 1 space each, with some degree of visitor parking. There is also an appreciation that these standards can be reduced in more accessible and well-connected locations such as town centres. There is further advice on the provision of disabled parking and electric charging points. The Neighbourhood Plan supports levels of car parking aligned with those outlined within The Local Plan through Policy TH9.

The NPPF states that in assessing specific applications for development it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) 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.

In regard to access considerations the removal of the secondary access that currently serves Mowbray is considered a positive change, as use of the garage and hardstanding currently presents poor visibility with vehicles entering and exiting the garage if used, and the hardstanding, also if used, is arranged in a way that may result in vehicles overhanging the pedestrian footpath. In regard to the proposed access point the existing entrance is to be widened and one of the pillars relocated to improve visibility for vehicles exiting the site. The Highway Authority have raised concerns that for a 30mph road the standard visibility splay is 43m in each direction (2.4m back from the highway) does not appear to be achievable. However, achieving these splays would always be challenging given the degree of street parking in the locality.

It is noted that street parking is unrestricted and appears prevalent within the area and there are a number of access points with limited visibility and/or visibility that appears limited by what seems to be quite consistent levels of street parking. The residential character of the road, its curving nature, and the level of street parking appears to provide an environment that necessitates due care when entering and exiting sites in the area. On balance the concern regarding the increase in usage of an improved but non-compliant (to the Torbay Highway Design Guide) access, is to a degree mitigated by the removal of the second access and the improvement of the retained access, together with the character of the street and prevalence of similar arrangements within the immediate context.

On balance, officers consider it reasonable to accept a non-compliant access in this particular situation. Any improved visibility splay is likely to be obstructed by parked cars. Similar access points currently operate nearby without causing any known safety issues, and the arrangement is unlikely to cause a demonstrable safety issue. Again, the proposal would result in improvements to the existing arrangements. The proposal is considered acceptable, bearing in mind the NPPF guidance that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

In regard to parking, the proposal is compliant with the expectations outlined within The Local Plan and The Neighbourhood Plan. The development provides 11 spaces to serve 7 apartments and one house, with 9 assigned spaces and 2 visitor spaces. This accords with the policy expectations for 1 space per apartment with parking for visitors and 2 spaces for a dwelling. Notwithstanding concerns raised within representations regarding parking pressure the proposal is considered policy compliant and acceptable on parking grounds. It is noted that policy guidance seeks electric charging points (2) and disabled parking provision (1) and these particular elements should be secured by a planning condition.

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 considered acceptable on highway and movements grounds, and in accordance with the Policies TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF.

5. Ecology & Biodiversity

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

Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 170).

The application is accompanied by an ecological assessment and a reptile survey, as recommended by the initial assessment. The ecological assessment concluded that aside the requirement for a reptile survey (to consider the presence and potential impact) there were no other potential ecological impact that required mitigation. It furthered that enhancements should be secured to include the provision for bats and nesting birds. The subsequent reptile survey states that no reptiles were recorded at the proposed development site and as such it is reasonable to conclude that they are absent from the habitat, although precautionary measures should be followed regarding management of the vegetation height and precautionary groundwork clearance.

In regard to trees the proposal maintains the mature specimens to the rear of the plot and proposes a revised footprint for the garden building that improves the spatial arrangement proposed. The revised proposal also removes the turning head from behind the building line which reduces the conflict with trees towards the side of the plot. The Council's Arboricultural Officer has removed an initial objection to the scheme and considers that the proposal is now suitable for approval subject to recommended conditions.

Having considered the submitted assessments, subject to conditions to secure enhancement features and tree protection measures, as suggested, the development is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

The site sits in an area with a low risk (Flood Zone 1) of flooding, however it does sit within a Critical Drainage Area as designated by the Environment Agency.

A Flood Risk Assessment has been submitted that confirms the scheme proposes a site-wide approach of adopting permeable materials and SUDS systems.

The Council's drainage has not commented on the scheme as the matter can be considered against standing advice. Standing advice in this instance cites that providing the developer has identified on the flood risk assessment that surface water drainage will discharge via a sustainable drainage system such as soakaways, no objections on drainage grounds to planning permission being granted providing the

infiltration testing and soakaway design are carried out in accordance with BRE365 and the design is undertaken for 1 in 100 year storm event plus climate change. As detailed the proposal identifies a sustainable urban drainage solution will be used and hence the proposal accords with standing advice. A planning condition should be attached to secure this method of drainage unless otherwise agreed by the Local Planning Authority.

The proposal is for the reasons above considered in accordance with Policies ER1 and ER2 of The Local Plan and advice contained within the NPPF.

Sustainability

Policy SS3 of The Local Plan establishes the presumption in favour of sustainable development. The site provides housing in a sustainable location close to shops, schools and bus routes.

Local Finance Considerations

S106: Not Applicable

CIL: In terms of the Community Infrastructure Levy (CIL) new chargeable floor space will be liable. For sites of 4-14 dwellings within charging zone 1 the rate is £70 per square metre of new gross internal floor space.

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:

Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a positive impact overall and help with the supply of much needed housing. There is some minor discord in terms of the access and general design guidelines, and certain elements of the scheme will have a minor impact upon the verdant quality of the plot. However these issues are considered minor and the overriding accordance with the Development Plan, and the NPPF when considered in the round, is deemed to provide a proposal that is acceptable on balance.

Housing Supply: The Council has a housing land supply which is below the 5 year supply sought by government. By providing 6 net new units the proposal will help with the delivery of much needed housing with a form of development that is considered to accord with the Development Plan and NPPF when read as a whole.

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.

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.

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.

In this instance substantial amendments have been secured to reduce the extent of development to the rear in order to reduce its resultant impact upon the setting, together with improvements to secure improvements to form of extensions proposed and the wider window stock. The Council has concluded that this application is now acceptable for planning approval.

Conclusions and Reasons for Decision

For the reasons stated within this report the proposal is considered to be in overriding accordance with the provisions of the Development Plan. The NPPF guides that development proposals that accord with an up-to-date development plan should be approved without delay. There are no material considerations that suggest that a decision should be depart from that which has been concluded against the Development Plan.

It should be noted that the NPPF (Para 38) guides that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It also furthers that decision-makers at every level should seek to approve applications for sustainable development where possible. There are, for the reasons within this report, no substantive reasons to not grant planning permission.

Officer Recommendation

Approval: Subject to the conditions detailed below.

The final drafting of conditions and 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.

Conditions

1. 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.

2. Tree Protection

Prior to the commencement of development a Tree Protection Plan and an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The detail shall make reference to (but not be limited to) to pre-commencement site meeting, signing on of contractors onto the AMS, use of root protection surfaces, and site monitoring timings. The approved detail shall be adhered to throughout the construction phase of the development.

Reason: In order to ensure against harm to mature trees within the vicinity of the development either directly or to their rooting system, in accordance with Policy C4 of the Torbay Local Plan 2012-2030. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction traffic and works commencing on site.

3. Landscape and Ecological Management Plan (LEMP)

Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, shall be submitted and shall include, but not be limited to, the following.

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- 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 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: To secure a satisfactory form of development in accordance with Policies SS8, C4 and NC1 of the Torbay Local Plan 2012-2030.

4. Drainage

In accordance with the submitted flood risk assessment received, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

5. Detailed design

Prior to the commencement of development above damp proof course level (excluding demolition) details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. A sample of the proposed roof slate and comparison detail of the existing slate,
2. Detailed drawings of all proposed windows and doors, including reveals and means of opening,
3. A sample of the proposed cladding for the garden building, and
4. All fencing and other mains of enclosures.

Reasons: In order to protect visual amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy TT2 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

6. Parking provision

Prior to the first occupation of the development details confirming the location and provision of at least 1 disabled parking space and 2 electric charging points shall be submitted to and approved in writing by the Local Planning Authority. The dwellings and apartments hereby approved shall not be occupied or brought into use until the parking spaces hereby approved (including the approved disabled space and charging points approved pursuant to this condition) and the manoeuvring areas have 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 Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

7. Cycle provision

Prior to the first occupation of the development the cycle store and cycle hoops, as detailed within the approved plans, shall be completed and made available for the purpose of cycle storage to serve the development. Once provided, the agreed storage arrangements shall be retained for the life of the development for such purposes.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030.

8. Waste provision

Prior to the first occupation of the development the waste and recycling storage facility, as detailed within the approved plans, shall be completed and made available for the purposes of waste storage to serve the development. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030.

9. PD

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 (or any Order revoking or revising that Order) the following forms of development are not permitted, 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;

- No additional means of enclosures,
- No additional hardstandings,
- No additional extensions or outbuildings.

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development and outdoor amenity spaces within a restricted site, in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030.

10. Access changes and closure of current access and provision of wall

Prior to the first occupation of the development (i) the existing vehicular access to Mowbray shall be removed and the associated wall rebuilt to a height and in a finished form that matches the existing wall. The wall shall then be maintained as such at all times thereafter. And (ii) the amendments to the retained access shall be completed, and shall maintain a form of wall and pillar to match that which exists, unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: To secure improvements to the plot and an acceptable form of development within the Lincombes Conservation Area, and for reasons of highway safety, in accordance with Policies SS10, DE1 and TA2 of The Torbay Local Plan 2012-2030, Policy TT2 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

11. Improvements to the Villa

Prior to the first occupation of the development all approved works to the Villa shall be completed in accordance with the details hereby approved and/or approved as details pursuant to conditions attached to this permission.

Reason: To secure improvements to the Villa and an acceptable form of development within the Lincombes Conservation Area, in accordance with Policies SS10 and DE1 of The Torbay Local Plan 2012-2030, Policy TT2 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

12. Nesting season - birds

All demolition and/or the removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged.

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

13. Ground clearance - reptiles

Ground clearance should be carried out with caution in accordance with the submitted Reptile Presence/Likely Absence Survey & Mitigation Strategy (Green Lane Ecology) and if any reptiles are encountered work should stop and a suitably qualified ecologist should be contacted for advice.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

14. Biodiversity measures

Prior to first occupation of the development measures to enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be installed prior to the first occupation of the development and maintained as such at all times thereafter.

Reason: To secure biodiversity enhancements in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS9 - Green Infrastructure
SS10 - Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management

W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH8 - Established architecture
TH9 - Parking facilities
TT2 - Change of Use in Conservation Areas and Listed Buildings
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
TTR2 - Sustainable Communities
THW4 - Outside space provision
THW5 - Access to sustainable transport



Application Site Address	Land To The North Of Totnes Road, Collaton St Mary Paignton
Proposal	Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road
Application Number	P/2019/0604
Applicant	Taylor Wimpey UK Ltd
Agent	Peter Brett Associates
Date Application Valid	18.06.2019
Decision Due date	17.09.2019
Extension of Time Date	
Recommendation	Approval: Subject to the planning conditions outlined within the report, with the final drafting of conditions and the negotiation/completion of a S106 Legal Agreement to secure Affordable Housing and other identified obligations, as outlined within the report, and addressing 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	Major Development
Planning Case Officer	Scott Jones

Location Plan –



October Addendum Report

September committee resolution: Deferred for further information / understanding on highway safety and foul sewer capacity.

Highway safety

Further clarification has been sought from the Council's Transport Officer and the applicant. The resultant comments are detailed below:

Council's Transport Officer:

I am responding further to clarify this position following the resolution of the planning committee on 09/09/2019 which has been recorded in the draft minutes as follows: "That the application be deferred for further satisfactory information in respect of highway safety and foul water sewerage."

The junction has been designed in accordance with a "Minor Access Road" or "Major Access Road" in accordance with the Council's adopted Highways Design Guide for New Developments. This sets out the requirement of the road and pavement widths. The Design Guide states that this design is suitable for up to 200 dwellings off a single access dependent on the design of the highway throughout the development which is currently unknown. In any respect, it is suitable for 100 dwellings in accordance with the adopted guide. The visibility splay provided is 2.4m x 90m which meets the standard required by the Design Guide also.

A right turn lane has been provided so that vehicles turning right into the site do not obstruct the traffic flow on the A379 Totnes Road, which is part of the Major Road Network.

I would not support the creation of a second access as, for the same reasons given in 2013 in response to the refusal of P/2013/0572, an additional junction will impact upon free flow of traffic along Totnes Road which is especially congested and when the A385 is backed up, inappropriate rat running and speeding through the site by residents and non-residents alike could occur.

In any case, given the approval of P/2019/0478, demolition of disused farm buildings and access at Little Blagdon Farm there is a high probability that any secondary access onto Totnes Road would conflict with the safe operation of that junction and the location of the bus stops which are important to providing the sustainable connections (and therefore a sustainable development) necessary for this development and the other allocations in the growth area.

The alternative option for a secondary access would be as set out in the Masterplan. This describes a link through to Blagdon Road from the development site. I am not aware of the land ownership matters which may impact on that opportunity but in any case, this would provide a link through from Totnes Road towards Blagdon and vice versa. It was intended to be associated with works to close or restrict access on Blagdon Road outside the school and church. Though technically a secondary access its purpose was to remove local traffic from outside the school and church.

Please note that all previous comments in relation to this application still stand.

Applicant:

A technical note is provided alongside this application to highlight the relevant matters which may not have been explained fully in the Transport Assessments and subsequent Highway Officer responses on Torbay's Council's planning portal. Our approach is summarised below:

Traffic Capacity:

Traffic speed and frequency was measured for 24 hours on site including 8.00 to 9.00 and 17.00 to 18.00 (normal peak hours) on Totnes Road during normal school term time. This site-specific data was used to model traffic impact using an industry standard programme (TEMPRO). To avoid a piecemeal approach, additional housing growth for the Collaton St Mary Masterplan area was also included in the model. The output demonstrated 73 dwellings on this site would increase traffic by 2% i.e. for every 100 cars on the road, there will be two extra cars in peak hours (in a worst-case scenario). This level of change does not amount to a severe level of impact in national planning policy terms and thus does not amount to a robust reason to not grant planning permission.

Access:

One vehicle access has been considered in accordance with the indicative design included in the Collaton St Mary Masterplan. The suitability of this access in terms of capacity and safety is measured against technical standards set within the Design Manual for Roads and Bridges (DMRB) and supported by site specific traffic survey

and site survey data. The site meets the stringent standard of the DMRB for safety capacity. Using the same site-specific traffic information, the junction design allows for 4 cars to queue in a separate right-hand lane to make sure the flow of people leaving Totnes in peak hours is not impeded. Modelling of local information shows that no more than one car will queue within peak hours of traffic. This allows for a level of additional resilience within the junction design. We meet and exceed the standard by which this type of planning application should be assessed.

The approach to assessment, the technical response and detailed design have been the subject of correspondence with the Highway Officer from the outset and reflected discussion that had taken place over several years. In previous proposals, the highways officer has supported significantly higher growth off a single access without safety concerns. The visibility of the access meets the DRMB standard. In addition, the applicant has agreed to fund a Traffic Regulation Order (TRO) to extend the 30-mph speed limit further outside of Collaton St Mary. It is usual practice for an applicant to fund a TRO, but a highway officer to secure it; as is the case here.

There is no technical to demonstrate either the applicant, the highway officer, or DRMB approach to junction design is wrong. In our view it would be difficult to suggest planning permission should not be granted on this ground.

Foul sewer capacity

Further clarification has been sought from South West Water and the applicant. The comments are detailed below:

South West Water

We have carried out a review for the above proposed development and am pleased to provide reassurance that South West Water can provide foul sewerage services for the site.

With regard to the specific area of Collaton St Mary, this has also been reviewed by our Supply and Team Strategy Team using information we have received at pre-planning stage and the Local Planning Authority. We use this information, along with growth forecasts and enquiries from developers to update our planning process. We then assess whether there may be a need to increase the capacity of the clean and waste water assets to receive the increase in flow. Any work that is required is usually planned into our 5 year business planning cycle, unless circumstances indicate otherwise.

With this in mind, our aim is to ensure that:

- Customers who are connected downstream of a development do not experience a lower level of service as a result of the extra demand from the development.
- There is no deterioration of the environment as a result of the increase in flows from a development.

The change in how we charge developers within the 'New Connections and Developer Services Charging Arrangements' are also set in such a way to recover monies from developers through the infrastructure charge to fund off-site reinforcement where there is a need to increase capacity of networks in consequence of growth.

Applicant

The responsibility for foul drainage rests with South West Water (SWW). SWW did not object to the application prior to being heard at committee. In addition to this and following deferral, they have reviewed further the proposed development, in combination with growth forecasts in the local area. Following this work and as the statutory undertaker for sewerage, SWW have raised no technical or capacity objection. It is noted that in circumstances where they would need to recover money for sewerage reinforcement, the mechanism for them sits outside of the planning process and sits within the Water Act, a matter dealt with directly by SWW.

During committee, a separate matter was raised was regarding the combining of foul and surface water sewerage and the impact of heavy rainfall. To assist Members consideration, this site is designed in accordance with national and local policy to retain water on site and not to discharge it any faster than the current greenfield position. Indeed, the proposal is to provide a level of betterment than existing water runoff through the provision of sustainable urban drainage management systems on site. This is achieved through the provision of large drainage ponds towards the south east of the site which will collect water runoff, including in heavy rainfall events. As such, less surface water will leave site than does currently if the scheme is built. This is detailed within the submitted Flood Risk Assessment, which has been reviewed and confirmed as satisfactory by Torbay Council, acting as Lead Local Flood Authority.

Applicant summary:

This above shows that the information provided through this planning application was considered by independent experts; the statutory consultees and they have not raised an objection. Their position has been re-affirmed and explained further. In this context, it is difficult to see how an objection could be sustained, especially given the lack of contrary technical evidence to demonstrate the independent opinions of statutory consultees is incorrect.

Officer summary and recommendation:

As detailed above and summarised within the previous committee report the current access proposals meet the Council's adopted technical guidance for roads and junctions and are considered to present a form of development that will provide a safe access that would not result in an unacceptable impact upon the highway network. The highway proposals accord with the relevant highway related policies within the Development Plan and there is no objection from the Highway Authority. Members are guided to advice 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).

As detailed above and summarised within the previous committee report the proposal will not present an unacceptable impact upon the foul sewer system in the area, either directly or in-combination. South West Water have clarified above that their previous support for the proposals were made in full awareness of any potential wider growth for the area, which hopefully satisfies Members concerns.

In light of no new material considerations that indicate otherwise the recommendation remains one of approval as previously detailed, which accords with advice contained within the NPPF that decision-makers at every level should seek to approve applications for sustainable development where possible (Para 38).

September Committee Report

Site Details

The application site is part (approximately half) of a triangular field adjacent to the Totnes Road (A385) close to Collaton St Mary on the western outskirts of Paignton. The site has historically been known locally as the “Car Boot Field”. The eastern half of the field which the application relates to is the lower half, where the land drops from west to east. The field measures approximately 7.2 hectares in area and the application site is 4.5 hectares.

The northern and eastern boundaries of the site are clearly defined by existing hedges. The southern boundary that runs along the edge of the Totnes Road is a mixture of rural estate railings, scrub hedging and intermittent trees adjacent to a linear grass verge, which permits public views across the field to the rising rural landscape to the north and east. The western boundary of the application site dissects the open field.

There is currently no vehicular access to the application site as the sole access point to the wider field is to the west within the upper part of the wider field. There is a pavement along the southern side of the Totnes Road however the northern side, along the site boundary, is a grass verge with no pavement.

On the opposite side of Totnes Road there is existing residential development in a predominantly linear ribbon form. These dwellings are generally set back from the road and the street form is broken up by large trees and landscaping, to the extent that the run of properties does not overtly read in close or distant views as an urban edge. To the west of the site there is a camping and caravan park. To the north and east there is open countryside land.

There are a number of heritage assets nearby. To the east off Bladgon Road there is the Grade 2* listed Church of St Mary, and Grade 2 Old School House and Old Vicarage. Again to the east on the south side of Totnes Road close to the junction of Bladgon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. 300 metres to the west of the site is another Grade 2* listed building, the 15th Century Bladgon Manor.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016). In terms of other relevant context the valley floor to the north/east of the site (close to the Bladgon Road) is a linear area with an identified risk of flooding.

Description of Development

The application seeks outline planning permission for up to 73 dwellings with all matters reserved except for access.

The proposal includes the creation of a single vehicular access off the Totnes Road (A385) with proposed highway works to re-align the Paignton-bound carriageway in order to facilitate a designated right hand turn lane into the site. Pedestrian access is proposed at three points adjacent to the Totnes Road. There is an access towards

the western corner close to a proposed play area within the site and adjacent to existing bus stops on the A385. There is also an access to the east close to the nearby school on to the highway verge. These two access points supplement a central pedestrian access that sits aside the proposed vehicular entrance. A linear pedestrian route is proposed within the site along the length of the border adjacent to the A385 that also links these access points.

The indicative detail submitted to support the proposal for 73 dwellings seeks to show that the level of development proposal could be appropriately achieved on the site, and this includes a masterplan layout. This shows a potential residential layout set around a loop-type arrangement with small clusters of units within short off-shoots to the north and south of the site. The submitted masterplan shows what appears to be a mix of detached, semi-detached and short terraces, with off-road and courtyard parking facilities appearing to show designated parking for all properties. Garden divisions that provide private space for all properties are also shown. In terms of wider detail, the indicative layout also includes a Locally Equipped Area of Play (LEAP) in the south west corner of the site adjacent to the Totnes Road, an informal green area to the south-east corner that is proposed to provide attenuation ponds and some informal space, and further pockets of what appears to be public green space within the layout.

Pre-Application Enquiry

N/A.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- Referendum version of the Paignton 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.

Relevant Planning History

Pre-Applications

DE/2015/0454: Development of 95 dwellings including associated access, car parking, landscaping and drainage infrastructure. Decision: Split decision, principle of residential accepted, design and other concerns raised.

Applications

P/2017/1304: Full application for 94 (reduced from 97) dwellings, with access, landscaping and infrastructure. Officer Recommendation: Refusal, for reasons of design, amenity, landscape impact, impact upon heritage assets, highway safety, and flood risk. Application withdrawn prior to committee and not considered by Members.

P/2013/0572: Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This is a departure from the Local Plan. Refused 14.08.2013. Appeal Withdrawn.

Refusal Reasons: (1) Principle, (2) Landscape Impact, (3) Protected Species (4) Flood Risk, (5) Lack of signed S106, (6) Highway Impact.

P/2012/1037: Full application for development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm new vehicular access to Totnes Road , internal road layout, car parking, open space, landscaping, ponds, services and infrastructure and all other associated development. Refused 12.12.2012.

Refusal Reasons: (1) Principle, (2) Design and Layout, (3) Landscape Impact, (4) Lack of signed S106.

Design Review Panels

March 2016 DRP (Pre-application DE/2015/0454):

Summary of key points:

There appears to be a gap between the analysis of the site and the vision projected for the development - the essential proposition needs to be rural rather than suburban.

The layout needs to be influenced and informed by a 'place-making' approach, rather than one led by the road layout. Roads need to become streets, parking needs sensitive handling and landscape design needs to reinforce the character of the development. If the form of the streets become less regular then their character becomes more rural and opportunities are created along them for parking, etc.

Once a more successful layout has been developed then clear parameter plans ought to be prepared and adopted through a condition in the planning permission which capture the essential strategies of the layout and ensure that there is no slippage between an outline consent and any reserved matters submissions.

The way in which the layout and individual house types respond to the slope should be assured and effortless - it ought to be an ambition of the development to achieve the least amount of earth-moving and levelling of the site in order to make a viable development.

The site continues to be in a sensitive location and accurate landscape and visual

impact assessments should be used to test the revised ideas before submission.

The connections from this new community to the other parts of Collaton St Mary need to be more confidently attempted - in order that active modes of travel (walking and cycling) are firmly promoted.

See great potential in this residential development and believe that it could be a highly desirable and therefore high-value opportunity - providing that the design ambition captures all the opportunities of this potentially beautiful site.

September 2012 DRP (Application P/2012/1037):

Summary of key points:

The design does not make a good case for a major incursion into this relatively unspoilt valley setting.

Perceive the proposals to be a fairly standard suburban character is being imposed on a landscape setting which is essentially rural.

The architectural design is undistinguished.

The landscape strategy needs to integrate more successfully and could be used to sub-divide and reduce the scale.

Anticipate that the quantum of development would need to be reduced dramatically.

Summary of Representations

37 Objections. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Impact on bats
- Increased flood risk
- Not in keeping with the local area
- Too many homes for the site
- Overdevelopment
- Too suburban
- Doesn't respond to the rural context
- Highway safety concerns – inadequate infrastructure in terms of vehicular, cycle and pedestrian movement in the area
- Loss of farmland
- Impact upon the sewer system
- Impact upon the South Hams SAC (bats)
- Impact upon the setting of the church
- Light pollution
- Noise pollution

- Raises the same issues as previous schemes that have been rejected
- Inconsistent with the Local Plan
- Inconsistent with the Neighbourhood Plan.
- Inconsistent with the Collaton St Mary Masterplan
- Inconsistent with the NPPF
- Unbalanced in terms of the need for jobs and homes
- Loss of habitat
- Presumption in favour of sustainable development should not apply due to the South Hams SAC
- Indistinct housing sprawl that would ruin the character of Collaton St Mary
- Local school already over-subscribed
- Impact on healthcare

Objections include those from the Collaton St Mary Residents Association and the Torbay Green Party, which both include a number of concerns including need, conflict with the development plan and NPPF, over-development, impact on ecology, poor access and highway impacts, and impact upon drainage infrastructure.

Summary of Consultation Responses

Joint Neighbourhood Forums: A joint response of all 3 Neighbourhood Plan Forums expressing why there is already a supply of housing land in excess of the NPPF and adopted Local Plan requirement.

The Neighbourhood Forums find the draft land supply statement published by Council officers does not take sufficiently into account the following:

- The assessment finds a not less than 3 year supply to be identified against the 5 year requirement given the 100% coverage of Torbay by the Neighbourhood Plans recently approved.
- The supply of deliverable dwellings exceeds 3.28 years shown in the draft.
- Review of the Local Plan housing trajectory is about to formally commence.

In conclusion, the Forums' finding is that more than a sufficient supply exists until the required Local Plan Review has been completed. They conclude that continued use of the existing Local Plan housing trajectory is no longer justifiable. A supply of at least 3 years exists that meets the requirement of NPPF14 for the purpose of decision taking as allowed for by the NPPF pending the Local Plan Review that is about to commence.

Paignton Neighbourhood Forum: The Forum objects to the application as it fails to resolve the harm that would result to the locality and occupants due to overdevelopment in direct conflict with the policies of the adopted Development Plan. It is viewed that the change in approach to an outline application for up to 73 dwellings in place of the previous detailed proposal for up to 94 dwellings has not overcome the fundamental problems (P/2017/1304). As such the proposal conflicts with the approved statutory Development Plan and all other material planning considerations for the following reasons:

Principle: It is not correct as implied in the application to assume inclusion of the site in the 'Future Growth Area' means that development of the site has approval in principle status. The adopted Torbay Local Plan designation is conditional upon the strategic policies of SS1, SS2, SS5 and SS12 being met.

Overdevelopment: The density of development proposed conflicts directly with the adopted Local Plan and Collaton St Mary Masterplan which shows the site for 40 dwellings having regard to the importance of the landscape, biodiversity and infrastructure constraints that apply. The submitted application masterplan will create a dense urban development out of keeping with the setting of the village and nearby listed building contrary to adopted Local Plan, adopted Collaton St Mary Masterplan and Policy PNP1 (Area wide) and Policy PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan.

Biodiversity: The latest proposal continues to rely on an outdated biodiversity survey (of 2016), fails to present up to date survey information that shows the 'in-combination' effect with all other plans and projects in the Collaton St Mary Area. The revised proposals therefore fail to meet the requirement of the Habitats and Wild Birds Directives, Conservation of Habitats and Species Regulations 2017, and local policy. It is critically important to accord with the Local Plan Habitat Regulation Assessment adopted by the Council in December 2015 which states that no proposal will be approved unless it can be "categorically proven" there will be no adverse impacts on European sites.

Landscape: The level of replacement and additional planting remains inadequate to compensate for the effect the proposal would have on the natural landscape views into and across the site and its contribution to biodiversity in direct conflict with adopted Local Plan Policy C4 (Trees, hedgerows and natural landscape features) and would undermine implementation of Policy PNP1 (a) (Rural Character Area) of the Paignton Neighbourhood Plan. Insufficient space is provided for within the submitted masterplan to provide for landscaping due to the density of development proposed.

Impact on transport: The access proposed and assumptions made about the impact it would have of additional turning movements and capacity of Totnes Road as a principal highway take insufficient account of the congestion and accident record that already affect the adjacent highway network. The internal road layout shown in the application masterplan will also create major conflict between cars, pedestrians and calling delivery vehicles made worse by the density of development. The resulting impact would be contrary to Local Plan Policy TA1/TA2 and Policy PNP24 (Collaton St. Mary Village) of the Paignton Neighbourhood Plan.

Impact on drainage and flooding: The proposal fails to demonstrate sufficient regard has been given to flash flooding that occurs immediately to the south east of the site which results in the water course breaching its banks and combining with foul water to the detriment of the area. For surface water disposal the SUDS scheme proposed fails to demonstrate there will be no increase in risk to existing properties. For waste water disposal (sewage) inadequate information is presented that demonstrates there is capacity to accommodate the additional flow as vague and insufficient details are given in the application of the foul water connection point proposed in Totnes Road where existing problems of foul water flooding occur.

In conclusion: There are no benefits or other material considerations in the proposal that either alone or taken together would outweigh the harm that would result. On the contrary, the proposal fails to make provision for a balance of jobs and homes, and provision for sustainable development contrary to the National Planning Policy Framework and key purpose of the adopted Local Plan, Collaton St. Mary Masterplan and Paignton Neighbourhood Plan.

Torbay Council Strategic Planning (Policy): The Development Plan for the area comprises of the Adopted Torbay Local Plan 2012-30 (December 2015), and the Adopted Paignton Neighbourhood Plan (June 2019). The Collaton St Mary Masterplan was adopted as SPD in 2016 and is a material consideration, along with the explanatory and justification text in the Local Plan and Paignton Neighbourhood Plan policy documents.

The site is part of a wider strategic allocation within the Local Plan and Policy PNP24 of the Paignton Neighbourhood Plan sets out that development is “supported where the proposals are in accordance with the adopted Masterplan for the area”. There are additional caveats and requirements across the Development Plan policies to consider, particularly in relation to the detail.

The current proposal does appear to be fairly consistent with the adopted Masterplan proposal. Although a larger number of dwellings are proposed, the layout and number shown within the Masterplan are indicative. The indicative layouts in the Masterplan are highly schematic and should not be taken as a ceiling on the number of dwellings that can be achieved so long as access, sustainable drainage, landscaping etc. matters can be satisfactorily addressed.

In regard to objections on the grounds of need it is argued within representations that the Local Plan’s level of growth is not justified. Such matters would need to be considered through the upcoming review of the Local Plan and it is not appropriate to consider these through a planning application on a strategically allocated site such as this. The Neighbourhood Plan has been through independent examination and Council approval process very recently which confirmed that it met the Basic Conditions including not revising strategic growth figures or undermining strategic policies. As set out above, the Neighbourhood Plan supports the growth set out in the Local Plan. If the Local Plan was considered to be out of date (as argued in the representations), then the Presumption in Favour of Sustainable Development in paragraph 14 of the NPPF is triggered.

In regard to objections re phasing it is not considered that the phasing in part 8 (and Table 8.1) of the Paignton Neighbourhood Plan can be taken as a phasing policy as it is not upper case policy. It is therefore to be considered as a material consideration. Treating it as a “phasing lock” policy would be tantamount to promoting less development than the Local Plan, contrary to the basic conditions governing neighbourhood plans and the guidance on Neighbourhood Plans in the NPPF which, by virtue of being adopted, the Neighbourhood Plan has been agreed by the Council not to do.

With regards to housing supply, we recently published our initial assessment that showed there was currently less than 5 years' housing supply in Torbay, which does trigger the presumption in favour of sustainable development, particularly against the Local Plan policies. A consultation has been undertaken and a range of responses received. It is not likely that the final outcome will increase the housing supply above 5 years but I am not able to confirm the precise outcome at this time.

Objectors have raised a number of concerns about details of the applications, but the level of conflict would need to be "significant and demonstrable" given the tilted balance in favour of granting planning permission. As discussed the site is allocated for development in the Development Plan, and can therefore be considered broadly in accordance with the Development Plan taken as a whole. As stated, Policies SS2 and SDP3 are strategic policies, and Policy PNP24 seeks to tie in development with the Masterplan principles.

Residents have reasonably been very concerned about surface water flooding and sewer overflows arising from storm water. The proposals will need to ensure that they do not worsen the situation either through surface water run off or placing additional pressure on the shared sewer but this will be for the drainage lead to comment on. Similarly there are a number of detailed design, access, ecology, heritage etc. issues that need to be considered. However, as set out above, both sites are allocated in the adopted Local Plan for residential development, and the presumption in favour of sustainable development applies to them.

In summary the presumption in favour of sustainable development applies to proposals in the Future Growth Area. This does not mean that poor quality developments or those that divert significantly from the Masterplan should be approved. However, the bar to resist proposals is much higher, because the principle of development has been established.

Torbay Council Strategic Planning (Transport) - Incorporating the views of the Highway Authority: The revised access has responded to concerns on having a visibility of 2.4x70m and now accords with the Torbay Council Highways Design Guide (page 24) in that for strategic routes with a speed of around 35-41mph the visibility should be 90m as a minimum. The resubmitted access plan has resolved this initial concern and the main vehicular access arrangement is now considered acceptable.

In regard to wider access and movement matters the NPPF is clear that any proposal should ensure that: appropriate opportunities to promote sustainable transport modes can be – or have been – taken up; safe and suitable access can be achieved for all users; and any significant impacts on the transport network, or on highway safety, can be mitigated (Para 108 NPPF 2019). In this case the wider pedestrian, cycle and bus access opportunities require improvement. It is therefore herein highlighted that improved access across that A385 should be achieved towards the top of the site in the area of the bus stops by with an extended footway and crossing point. In addition pedestrian access should be secured towards Blagdon Road (and school and church) through the provision of a foot/cycle path within the highway verge as there is no current footpath in this location. These works should be achieved through condition or similar.

In terms of other matters Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD will also apply (to the non affordable dwellings). In the case of Sustainable transport it is indicated as “trip rate x £171” per dwelling. In this case the trip rate is equal to 4.854 (Appendix F of the Transport Assessment – TRICS output page 5) per dwelling, multiplied by £171 equals £830 per non affordable dwelling built following any reserved matters or full planning consent. Alternatively the SPD also makes an assumption on a trip rate specific to different sized dwellings. This method could be used but can only be calculated following the detail planning application. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. An obligation should be secured via a S106.

In addition Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and it is appropriate to divide that amongst the properties proposed, using the numbers as set out in the Adopted Masterplan. In total, the Adopted Masterplan supports approximately 460 homes (£2,174 per dwelling). That same Adopted Masterplan estimates 55 dwellings on this site. Therefore £119,500 towards the development and implementation of the scheme.

Finally in order to relocate the 30/40mph speed limit a contribution is required as this cannot be delivered under S278. The estimate to undertake this work is £8,000. These matters should be secured within the decision making process.

Torbay Council Drainage Engineer: The revised submitted flood risk assessment identifies that infiltration testing has been undertaken on the development site and the proposed surface water drainage strategy for the development incorporates the use of SUDS features. In addition the assessment identifies a controlled discharge to the Yalberton watercourse.

The hydraulic designs are based on the current masterplan layout for the site and these demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

As the final layout for the development and hence design for the surface water drainage system may change between the current outline and detailed design any changes to the surface water drainage during detailed design must be submitted to the planning authority for approval prior to construction works commencing on site.

It should be noted that Torbay Council have identified a flood alleviation scheme immediately downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency’s six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a previously agreed figure of £915 per dwelling has been identified. As a

result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £66,795 (73 x £915).

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval, together with the funding above being secured.

Torbay Council Interim Heritage Officer: Of the heritage assets potentially affected the Church of St Mary is of high significance, reflected by its designation at Grade II* listed. In relation to the impact upon the setting of this building, the proposed development will introduce new built form into a part of the Church's wider setting and will extend the built area of Collaton St Mary. The western part of the Site currently has some limited, partial views of the Church. The heritage assessment fairly acknowledges that the proposed development and associated landscaping will block localised experience of the asset's significance from within the application site, although some views of the Church will still be maintained from within the site between new housing units and over those units set at a lower level.

The submitted heritage assessment suggests that the proposed development is considered to cause a minor level of harm within the spectrum of less than substantial harm to the significance of the Church of St Mary. In my view this is a reasonable conclusion, nevertheless the conclusion remains that some harm will still result. The latest proposal is a clear improvement over that previously withdrawn however there remains some adverse impact upon the setting of the Church of St. Mary, by virtue of the erosion of the rural context, which will be replaced by a more suburban development, although the Design and Access statement illustrates how the form of development has been planned to better respect the village character. However, it is accepted that the degree of impact is limited in terms of the wider context of the Church. The layout now proposed also includes a designed 'framed view of the church' and is more respectful of importance of the building and more akin to a traditional pattern of development where the status of church would have apparent.

The current outline layout has taken into consideration the heritage sensitivity (and other issues) placed on the site due to its contribution to the setting of the church. The Design and Access statement submitted with the application illustrates how such factors have been considered and as a consequence how the scheme has evolved considerable and now acknowledges the importance of the constraints and seeks to respond to them. Whilst in outline form the design and access statement provides a degree of confidence that the importance of responding to the special character of the locality has been recognised.

Paragraph 196 of the National Planning Policy Framework (NPPF) provides for 'where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal'. Thus the decision process will need to weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category.

Torbay Council Planning/Ecology Advisor: The site is dominated by species-poor semi-improved grassland. It is bordered by species-rich hedgerows on the north-eastern and north-western boundaries; scattered trees and scrub occur along the southern boundary. The site is located within a South Hams SAC Greater Horseshoe Bats 'Sustenance Zone' and 'Strategic Flyway'.

Ecological Constraints include the use of site by foraging and commuting bats (including greater horseshoe bats), a low population of reptiles, a hedgehog population, a badger sett located adjacent to the north western boundary and three outlier setts along the northern boundary, breeding birds using the site.

I concur with the assessment of the likely effects on ecology set out in the submitted EclA and are satisfied that the key ecological issues will be addressed by the applicant through the proposed mitigation and management.

There are currently no ecological grounds for the objection to the above outline application, subject to the proposed mitigation, monitoring and suggested additional bat monitoring being secured.

Future reserved matters application should:

- Seek to identify and pursue opportunities for securing measurable net gains for biodiversity through on and off-site biodiversity offsetting in order to comply with the guidance contained within the NPPF, Torbay Local Plan Policy NC1.
- Incorporate the delivery of enhanced green infrastructure. Green infrastructure can relate directly to place-making and enhancing local character. By incorporating it within the design of the development it can provide more meaningful landscape spaces and it can link areas of the development through common ground.
- Consider the connectivity of the landscape and context of the wider environment – sympathetic planting of natural features prevents fragmentation of the habitat and allows many species to continue to move about the site freely. Native-species hedges should be used rather than fences to define property boundaries. Opportunities to improve/maintain habitat connectivity should be considered early in the design stage.
- Include a Lighting Assessment, including a lux contour plan, for both public-realm and domestic lighting to demonstrate compliance with the submitted external lighting plan, this should be secured via a planning condition.
- Include a CEMP and LEMP detailing the proposed delivery of the mitigation and management measures set out in the EclA report which should be secured via a planning condition.
- Secure the provision of the construction phase and operation phase ecological mitigation measures detailed in the EAD ecology Shadow HRA report.

- Secure the post-construction monitoring of the dark bat corridor to ensure that light levels below 0.5 lux are being achieved.
- The applicant should also undertake monitoring of the bat dark corridor during the construction phase which is not included within the current proposed mitigation/monitoring measures. This, along with the post construction monitoring should also include the use of automated bat surveys rather than purely lux level monitoring so that the success of the proposed mitigation can be reviewed.

Habitat Regulations Assessment Ecology Advisor: In regard to the South Hams SAC (with respect of the greater horseshoe bat feature only) it is concluded that in light of the mitigation measures identified and consideration of the implications for the sites Conservation Objectives in Section 16 and 17 of the HRA/AA the application will not adversely affect the Integrity of the South Hams SAC - alone or in combination with other plans or projects.

Mitigation, as outlined in the HRA/AA will ensure that the likely significant effects on the greater horseshoe bat foraging/commuting habitats around the site and in combination with other plans or projects are avoided.

The various mitigation measures should be secured through conditions and/or appropriate clauses in the Section 106 Agreement attached to any planning consent. It is therefore concluded that this proposal will not adversely affect the integrity of the South Hams SAC.

Proposed conditions:

- Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas
- Construction Environmental Management Plan – Biodiversity
- Landscape and Ecological Management Plan (LEMP) or equivalent
- Ecological monitoring to provide early warning of threats to bat commuting routes

Torbay Council Affordable Housing Team: Torbay Council's affordable housing policy requires 30% affordable housing to be provided on a scheme of this size. As a result we will expect to see 22 of the 73 homes on this site as affordable housing. Furthermore, the expected mix on bedroom numbers should be proportionate to the mix as a whole.

Torbay Council Education Team: The latest published position statements reiterate that the need and demand for school places in Paignton remains high and particularly now in the secondary sector.

S106 contributions should be sought in-line with the Adopted SPD for education particularly to address the shortfall in the older year groups in primary and across the whole of the secondary sector.

Torbay Council Natural Environment Services Team: No comment supplied

Natural England: Summary of Natural England's advice; no objection - subject to appropriate mitigation being secured, to avoid having an adverse effect on the integrity of South Hams Special Area of Conservation (SAC).

Natural England notes that the Authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with Regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any permission given.

Further matters include that the proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. As part of Torbay Council's commitment towards Green Infrastructure, we are keen to see the integration of this important element into the proposals. This will facilitate a holistic approach and ensure that the development proposals are capable of delivering an environmentally sustainable package. If you have not already done so, we would encourage you to liaise with Torbay Council's green infrastructure officer, to explore opportunities to strengthen Green Infrastructure.

South West Water: South West Water has no objection. A public water main lies within the site (running parallel to the A385), this must be retained either in the new road layout or areas of public open space. Its retention in private garden areas or beneath the potential surface water attenuation ponds shown on the master plan will not be permitted.

Environment Agency: No comment supplied.

RSPB: No comment supplied.

Devon Wildlife Trust: No comment supplied

Police Designing Out Crime Officer: Thank you for requesting consultation on the above application which is for access only to be determined at this time as such I would like to advise that I have nothing further to add to comments previously submitted within the previous application, the contents of which remain valid where relevant and should be considered in the decision making process for the above.

The illustrative masterplan for the above proposed development is noted but should the planning process evolve I would welcome early consultation with regard to a

detailed design and layout of the proposed scheme to ensure that opportunity for crime, fear of crime, antisocial behaviour and conflict are minimised.

Key Issues/Material Considerations

Planning Officer Assessment

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

1. Principle of Residential Development

The application site is located within a wider Strategic Delivery Area (SDA), as designated in the Torbay Local Plan under Policy SS1, which identifies areas for the delivery of growth and change in Torbay for the period of the Local Plan. In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 of the Torbay Local Plan, where it sits in the identified *Paignton North and West Area, including Collaton St Mary* (Policy SS2.2). The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 460 houses could be provided within the Totnes Road / Collaton St Mary Future Growth Area over the plan period. Policies SS1 and SS2 identifies that Future Growth Areas are areas within SDAs that show broad locations where the Council will seek to work with landowners and the community, through neighbourhood planning and/or master-planning, to identify in more detail the sites, scale of growth, infrastructure etc that is required to help deliver the aspirations of the Local Plan.

The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development with some areas of green space to the south of the site near to the A385. The Masterplan identifies the site as being phase 4, the final phase of the wider Collaton St Mary Masterplan area. However the Masterplan also states that these elements of the Masterplan can be delivered earlier without negatively impacting upon other phases should the need or desire to develop these areas arise sooner.

The Paignton Neighbourhood Plan does not identify housing sites however Policy PNP24 (*Collaton St Mary Village*) does outline that any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted masterplan for the area. As the application site is identified as a potential site for housing within the adopted masterplan the Neighbourhood Plan is considered to support the principle of housing development on this site. The current proposal is considered to be generally consistent with the Masterplan proposal, as although a larger number of dwellings are proposed, the layout and number shown on the masterplan are indicative and the indicative layouts in the Masterplan are highly schematic and should not be taken as a ceiling on the number of dwellings that can be achieved.

The Paignton Neighbourhood Forum states that it is not correct to assume that the inclusion of the site in the 'Future Growth Area' makes the proposal acceptable in principle, as the adopted Torbay Local Plan designation is conditional upon the strategic policies of SS1, SS2, SS5 and SS12 being met. This opinion is not shared by the Council's Strategic Planning Policy Team, where the advice is that the Policy landscape within the Development Plan, as outlined above, establishes the principle of the development. Wider considerations will be discussed in more detail within this report but it is concluded that the proposal accords with the strategic policies SS1, SS2, SS5 and SS12.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering the Development Plan as a whole, subject to other material considerations, which will again be discussed in more detail below.

2. Design and Visual Impact

Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all matters reserved for future consideration, the submitted information does include an indication of a proposed site layout and further detail on the likely character and appearance of the development. It is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 73 dwellings) could be appropriately achieved in terms of its layout, design and character, without undue visual impact.

Achieving good design is a central thread within government guidance and Part 12 of the NPPF "Achieving well-designed places" offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 offers that 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.

In regard to the Local Plan Policy SS2 (TLP) states that development delivered within each of the Future Growth Areas must be integrated with existing communities, and reflect the landscape character of the area as informed by Torbay's Landscape Character Assessment (2010). Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. Policy SS11 (TLP) states in part that development should be of an appropriate type, scale, quality, mix and density in relation to its location. In terms of non-strategic policies Policy DE1 (TLP) outlines a number of factors towards securing development that is well-designed and that respects Torbay's special qualities. Further to these Local Plan policies Policy PNP1 (c) and (d) of the Paignton Neighbourhood Plan sets out local design criteria, whilst PNP24 seeks development to be designed in such a way that it re-establishes the village character (of Collaton St Mary) and respects prominent landscape and other features.

Consultee comments received from the Paignton Neighbourhood Forum cite a concern that the proposal is an overdevelopment of the site that conflicts with the indicative lower number of dwellings within the adopted Masterplan, that will create a dense urban development out of keeping with the setting of the village, and also that the level of replacement and additional planting would be inadequate to compensate for the effect the proposal would have on the natural landscape views, with insufficient space provided for within the submitted masterplan to provide for landscaping due to the density of development proposed. A number of public objections similarly raise concerns in terms of the landscape and character impacts, generally citing the scheme as an overdevelopment of the site that would harm the character of the village and wider area.

In terms of the proposal the application is supported by an indicative masterplan that presents how the amount of development could be laid out within the site, together with a design and access statement that seeks to recognise the local character and suggest design strategies to resolve an acceptable form of development that could form part of a future reserved matters application. There is also a supporting landscape and visual impact assessment which concludes on the suggested developments' likely visual impact. This concludes that the character of the current proposals will ensure that the scheme is well related to its edge-of-settlement character, and will provide an appropriate rural – urban interface, and that the proposed development will not give rise to any significant landscape or visual effects, and will be well related to the surrounding landscape and townscape.

It is considered that the indicative masterplan submitted within the application presents a broadly similar layout to that shown for the site within the adopted Masterplan, with a single access point and a circular road arrangement that loops to the far northern edge of the site. The most observable divergence that the indicative layout has with the adopted Masterplan layout is the greater extent of development adjacent to the Totnes Road, where rather than a continuous green edge there is proposed development within the central section of the frontage, separating a proposed play space to the west and a proposed open space (including attenuation pond) to the east along this frontage. The accompanying design and access statement explores the design process that has informed the indicative masterplan and suggests how the layout and future form of development could reflect South Devon village vernacular, with 'village mews', 'village street', 'village edge' and 'rural courtyard' forming four concepts for character areas within the development.

The indicative layout and supporting information seeks to tackle the various design concerns that Officers held on the previous application for 94 (reduced from 97), which was ultimately withdrawn by the applicant prior to a decision being made on the application. Previous concerns in terms of design and visual impact centred on the development presenting an incongruous suburban form development that related poorly to the rural context, together with it presenting a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy.

The number of units sought within this current application has been reduced to 73, which in terms of the layout has principally removed a linear street from the development, returning it broadly to a singular loop towards the north edge akin to the

adopted masterplan layout. The removal of a road and the provision of 21 less dwellings presents a less dense form of development with more public open space, larger gardens, and greater separation distances between buildings, which in turn presents greater internal planting potential than previously shown. On balance the reduced density and additional potential for substantive planting of trees, and for larger areas of public open space, will help to break up the built form and soften views of the development both internally and externally. The proposal would provide a basis for the form and character of a future reserved matters scheme to be well related to its edge-of-settlement location, and thus provide an appropriate rural – urban interface as concluded within the submitted landscape assessment.

In regard to design and residential environment the proposal seeks to respond to Officers previous concerns (on the scheme for 94 dwelling) regarding overdevelopment and a cramped form of development, which was considered to present a poor residential environment for future occupiers due to the close proximity of properties and resultant potential levels of overlooking and loss of privacy.

The indicative masterplan appears to present a more appropriately resolved layout with a demonstrable easing of the previous pressure upon space. The layout suggests that garden space could be adequately resolved to meet the standard expected within the Development Plan of 55sqm whilst also reflecting the more spacious character of the rural edge development. The more spacious layout also largely resolves previous concerns on the inter-relationships between properties and plots and the potential impact of proximity on the privacy afforded future occupiers. The suggested distances between properties are largely in excess of the 20m guide for back-to-back plus an allowance for likely level changes, which indicates that the 20m guide should be increased to secure suitable levels of privacy. The suggestion of planting within areas of the development has further potential to remove direct sight-lines, which is welcomed in principle. It should be noted however that these distances are illustrative only, but serve to demonstrate what could be achieved. A detailed layout and residential relationships would be considered in detail at the reserved matters stage.

In terms of other matters the indicative masterplan appears to contain adequate parking to meet the expected levels of 2 spaces per dwelling. Further details will be required as part of a reserved matters submission to enable the precise parking arrangement to be properly scrutinised, but it appears, based on the space available, that an adequate parking arrangement could be provided for the proposed number of units without needing to significantly compromise on other important aspects of the scheme, such as dwelling sizes, the availability of landscaping and amenity space etc.

In the absence of more detailed information relating to building levels, the siting of openings within the proposed buildings, and other information concerning the proposal's layout, appearance and scale, it is not possible at this time to ultimately determine the acceptability of the proposal in these respects. These matters will need to be addressed at the reserved matters stage, and a range of conditions are recommended to ensure that adequate details are submitted for the Council's consideration. These include details such as boundary treatment, refuse storage, landscaping, and so on. However, based on the indicative information submitted, it appears that a development of up to 73 dwellings could, in principle, be achieved at the site in terms of its layout, appearance, scale, and the associated impacts on visual

and residential amenity, based on the indicative masterplan and supporting information currently available.

It is considered that the proposed access arrangements would not result in unacceptable harm to the character of the area. Based on the indicative information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

3. Impact on Heritage Assets

As an outline proposal with all other matters reserved for future consideration except for the access, it is necessary to consider the likely impact upon heritage assets of the expected scheme, informed by the submitted supporting information.

The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

In terms of the local Development Plan it is guided that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

In terms of the heritage context for this proposal there are a number of heritage assets nearby. To the east off Bladgon Road there is the Grade 2* Parish Church of St Mary, and Grade 2 Old School House and Old Vicarage buildings, in addition to a further four Grade 2 listed properties set off the Totnes Road (No.s 391-397). To the west (approximately 300 metres) of the site is another Grade 2* listed building, which is the 15th Century Bladgon Manor.

In terms of consultee comments the Paignton Neighbourhood Forum has raised concern on the potential harm on the setting of the nearby listed Church, and similar concerns have been raised within a number of the public objections. Historic England were consulted but have not provided comments, but it is noted that they previously objected to the scheme for 94 dwellings due to the likely impact upon the setting of the Grade 2* Church on grounds of the likely impact upon the rural setting of this building.

In terms of context around the church and the organic cluster of surrounding historic buildings the rural character and setting is largely retained, and notably the surrounding green fields reinforce the relationship between the church and the rural hinterland and ultimately how it is experienced as a rural village church.

The previous proposal for the development of the site submitted under planning reference P/2017/1304 (for up to 94 dwellings) attracted significant concerns regarding the impact upon heritage assets both from the Council's Conservation Officer and also Historic England. As mentioned above Historic England advised that they were not convinced that the previous proposal had taken into consideration the sensitivity placed on it through its contribution to the setting of the church and they suggested that further steps should be taken to understand what the contribution of the site is to the significance of the asset derived from its setting.

The current application seeks to resolve these previous concerns and notably the application proposes 21 less dwellings and has removed a road from the layout within an outline proposition for up to 73 dwellings, which presents a marked reduction from the previous scheme and a far less dense form of development. In addition additional planting has been introduced within the centre of the development in order to present a stronger landscape concept that will help break up and soften the form of development. In addition the contextual village character has been more greatly assessed within the current Design and Access Statement, also to present a concept for a less suburban form of development within a future reserved matters application.

In relation to the resulting impact upon the setting of the church although the proposal will still introduce development into a part of the Church's wider setting and will extend the built area of Collaton St Mary, the impact is considered to have lessened over that of the previous scheme considered under application reference P/2017/1304. The submitted heritage assessment acknowledges the relationship and concludes that the proposed development is likely to cause a minor level of harm within the spectrum of less than substantial harm to the significance of the Church of St Mary. This conclusion is not challenged by the Council's interim conservation advisor and is considered a reasonable conclusion

Considering the submitted detail and the advice received it is considered that, in terms of layout, the latest proposal is a clear improvement over the previously withdrawn scheme, notwithstanding that there remains some adverse impact upon the setting of the Church of St. Mary (by virtue of the erosion of the rural context). However it is accepted that the degree of impact is now limited in terms of the wider context of the church as the development parameters are more respectful to the rural context and the importance of the building and its setting, and thus presents a framework for a more appropriate pattern of development within a future reserved matters application.

Para 196 of the NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal. Thus the decision process should weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category. This balancing exercise also needs to consider further advice contained within the NPPF that where a development proposal will lead to less than substantial harm to the significance of a

designated heritage asset, this harm should also consider an optimum viable use of a site (Para 196).

Considering the conclusions above in this instance the impact on the setting of the Grade 2* Parish Church of St Mary and the other listed buildings needs to be weighed against the public benefits of the proposal. In this instance the public benefits being the provision of up to 73 dwellings, of which 30% will be affordable, in addition to the delivery of construction jobs and the resultant households and their expenditure within the local economy. Officers are mindful that the site is identified for housing and the principle of housing is not objected to per-se. Officers are also mindful that the adopted masterplan for the area identifies the site for housing with a similar indicative form of development.

On balance, with a less than substantial level of harm, when considering the Development Plan and the NPPF, the proposed access arrangements and indicative layout, in terms of heritage assets, are considered suitable for approval in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 of the NPPF.

In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

4. Impact on 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 Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1.

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 movement and parking impacts through the use of a planning condition. As the site lies across a busy road from the nearest residential properties the impact is likely to be limited, certainly towards the rear of these buildings and their plots, where quieter areas are more likely to exist away from the road.

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 for existing occupiers in the area or the school.

In terms of scale and appearance this will be established within a future reserved matters application, but there is unlikely to be any loss of outlook or light due to the modest scale of residential development and the fact that properties are expected to be set some distance away across a relatively wide public road. The school is also likely to be unaffected.

In terms of privacy, inter-visibility and overlooking, again when considering the distances involved, and taking into account the topography, the relationships across

the Totnes Road are considered acceptable in terms of the likely impact of the development upon existing occupiers. The school is also likely to be unaffected.

In summary the proposed access arrangements and indicative layout and supporting information are considered to demonstrate the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers or the school, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

5. Impact on Highway Safety

The NPPF guides that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) 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.

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 Paignton Neighbourhood Plan is largely silent on access and highway matters beyond guiding that appropriate infrastructure should be in place for development, that sustainable modes should be encouraged and that suitable parking and cycle facilities should be provided within residential development.

Comments received have raised objections to the proposal. The Paignton Neighbourhood Forum have raised concern about the access proposed and assumptions made about the impact it would have, including the capacity of Totnes Road, offering that the scheme takes insufficient account of the congestion and accident record that already affect the adjacent highway network. There are also concerns on the internal road layout shown in the application masterplan. Various public objections also raise highway concerns in terms of congestion and highway safety.

In regard to vehicular access the development would be served by a single new access junction which includes a right hand turn lane off the Totnes Road. Through revised plans the visibility standard accords with the Council's design criteria for the road speed, with 90m visibility in both directions. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction detail and supporting transport information and has raised no objections in relation to the proposed vehicular access arrangements. It is considered that the proposal would not result in significant harm to highway safety or amenity and would accord with local and national guidance.

The proposed site layout is not being applied for at this time however indicative details have been provided, including the proposed pedestrian and cycle links. The layout details provided indicate a network of pedestrian and cycling links through the proposed public open space areas, with connections to the wider highway network at two further points along the Totnes Road to the eastern and western edges of the site frontage, together with a potential pedestrian/cycle link to the school grounds. On the information provided the wider pedestrian, cycle and bus access opportunities shown are considered to require improvement. It is highlighted that improved access across the A385 should be achieved towards the top of the site in the area of the bus stops, with an extended footway and provision of a crossing point. In addition to this pedestrian access should be secured towards Blagdon Road (and school and church) through the provision of a foot/cycle path within the highway verge linking to the pedestrian exit route shown within the masterplan, as there is no current footpath in this location. Although these details are not shown on the submitted plans these works could be secured through a planning condition and should these be secured the indicative layout does not raise any significant concerns at this stage. Ultimately further scrutiny will be given to the internal layout at reserved matters stage.

In regard to other matters Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted within the Councils combined highway and transport comments the Planning Contributions and Affordable Housing SPD estimates improvement works to circa £1m (para 4.2.7) and based on the scale of the development proposed a proportionate funding level of £119,500 towards the development and implementation of this scheme should be secured (via S106 legal agreement).

In terms of other matters funding to secure improved sustainable transport links should be secured in accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to the open market dwellings). In this case the trip rate presented within the submitted Transport Assessment equals an obligation level of £830 per open market dwelling following any reserved matters approval. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. Again this obligation should be secured via a S106 legal agreement.

Finally the proposal indicates that the 30/40mph speed limit boundary should be relocated. In order to relocate the 30/40mph speed limit a contribution is required as this cannot be delivered under S278 and should be secured via a S106 legal agreement. The estimate to undertake this work is £8,000.

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, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, considered acceptable on highway and movements

grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

6. Ecology & 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.

In terms of the ecology context the site is an open grass field with tree lined borders and the application is supported by a number of ecology-based documents. These include a shadow Habitat Regulations Assessment as the site lies within a known flyway of the Greater Horseshoe Bat (GHB) associated with the South Hams Special Area of Conservation (SAC).

Considering the context the key ecological issues relate to the use of the site by GHBs and the consideration of the likelihood of a significant effect, along with broader ecology considerations regarding reptiles (principally slow worms), and foraging badgers (as there is a sett in the north-west corner), together with broader biodiversity enhancement aspirations.

In regard to the potential impact upon GHBs associated with the South Hams SAC the proposals include the creation of a 10m wide 'dark' wildlife corridor (<0.5 lux) along the northern and eastern boundaries, incorporating existing landscaping and further planting. In addition the supporting information details construction phase managing to limit impacts, and operation-phase mitigation through additional planting and ongoing management to principally limit light-spill. The Council's ecology advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment which concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. The Council's HRA has been submitted to Natural England for comment and Natural England support the findings, that subject to achievable mitigation the proposal is considered acceptable with the conclusion of no likely significant effect.

In regard to wider ecology considerations the submitted information proposes a mitigation strategy that includes creating an exclusion zone around the badger sett, retaining and enhancing hedgerows, suitable habitat/ tree planting, installation of a range of bird and bat boxes on new residential builds, garden fence small mammal passes, and wetland planting in association with the sustainable urban drainage area. The Council's ecology advisor has concluded that that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

In terms of broader biodiversity aspirations in-line with advice from Natural England and the Council's ecology advisor future reserved matters should duly consider and propose measures to enhance biodiversity.

In-line with advice from Natural England and the Council's ecology advisors the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local

Plan, The Paignton Neighbourhood Plan, and advice contained within the NPPF.

7. Flood Risk and Drainage

The site sits in an area with a low risk (Flood Zone 1) of flooding, however there is a linear area of heightened flood risk to the north that follows the valley floor from west to east. The site is also within a Critical Drainage Area as designated by the Environment Agency.

A revised flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans that illustrate a drainage solution that utilises attenuation tanks and balancing ponds. These are situated in the eastern corner of the site and integrate into a wider area of public open space.

The Council's drainage engineer has reviewed the revised detail and has concluded that the submitted detail demonstrates that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, subject to a final layout for the development and design being submitted to the planning authority for approval prior to construction works commencing on site. This can be achieved by a planning condition.

In terms of other matters there is an identified flood alleviation scheme immediately downstream of the development on the Yalberton watercourse and the council's drainage engineer has identified that as the surface water run-off from the proposed development is likely to impact on this watercourse a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a figure of £915 per dwelling has been identified, which would present an obligation from this development to the flood alleviation scheme to the sum of £66,795 (73 x £915).

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final drainage design for approval, together with the funding above being secured.

The proposal is considered, subject to the above, in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

8. Other Considerations

Housing Supply

The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan. As stated within this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area. 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.

It is concluded that the development accords with the Development Plan and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were this judgment different and the proposal considered to conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As stated the land is allocated for housing and the development broadly accords with an adopted masterplan for the area, that is itself supported within the Neighbourhood Plan, the conclusion would in such a circumstance be that the adverse impacts are not significant and demonstrable in this context, and the tilted balance in favour of granting permission should apply.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The site is identified for housing within the Development Plan and is hence broadly considered a sustainable site for future residential development.

The proposal is supported by a travel plan that seeks to provide the parameters to help the development minimise the use of the private car. This for example includes providing cycle parking facilities for all dwellings and good quality pedestrian and cycle networks within the development.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduced CO2 emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures.

Local Finance Considerations

S106:

The following are draft Heads of Terms for a legal agreement, which should be completed prior to a planning consent being issued. Triggers and instalments in relation to the proposed financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

Highway works

In-line with Torbay Local Plan Policy SS6.2 and SDP3 development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. Based on the scale of the development expected within the area and within this site a proportionate funding level of £119,500 towards the development and implementation of this scheme should be secured.

In order to relocate the 30/40mph speed limit a contribution is required. The estimate to undertake this work is £8,000.

Flood Works

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. As there are proposed to be approximately 500 new properties constructed within the catchment drainage to the Yalberton Watercourse the contribution for each property should be secured. The level of funding should be secured based on a figure of £915 per dwelling. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £66,795 (73 x £915).

Affordable Housing

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of 30+ dwellings that 30% should be affordable housing. At 30% the scheme is expected to secure 22 affordable units.

The provision should be secured via a S106 with elements of the provision, such as location and mix, being agreed through the reserved matters stage when the form and layout is progressed beyond the current indicative stage.

Sustainable Transport

In accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to open marking housing only) Sustainable Transport obligations should be secured at a rate of £830 per eligible dwelling. Based on "trip rate x £171" per dwelling where the trip rate is equal to 4.854 (Appendix F of the Transport Assessment – TRICS output page 5) or other alternative method as agreed. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

Greenspace and Recreation

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes a LEAP to provide local plan space together with more informal space. The provision of a LEAP is considered commensurate for the scale of development in the absence of further comment from the Councils Natural Environment Services Team.

Education

Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

Lifelong Learning Obligations

Obligations in-line with the adopted SPD should be sought to secure library improvements within the area, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

Waste and Recycling

Obligations in-line with the SPD should be secured to provide waste and recycling

facilities for properties that will be served by the Local Authority waste collection provider.

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.

HRA:

The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment / Appropriate Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC. Natural England have been consulted and concur with the Council's conclusions, subject to securing the proposed mitigation measures.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. It is acknowledged that there are concerns about the potential impact upon setting of the listed church and broader landscape impact, however on the information available this is not unacceptable, subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications.

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.

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 and Reasons for Decision

The site is identified for housing within the Development Plan and the proposal does appear to be fairly consistent with the associated adopted Masterplan for the area.

Key public concerns regarding the impact upon the Greater Horseshoe Bats and flooding are resolved to the satisfaction of the statutory consultees on these matters, and the highway authority does not object to the access or impact upon the road network.

There is a degree of impact upon the landscape and setting of the nearby listed church, however these impacts are not considered significant and are outweighed by public benefits.

In-line with the above conclusions, and the detail contained within this report, the proposals are considered to be in accordance with the provisions of the Development Plan. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay.

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable conditions, and securing a S106 Legal Agreement to secure the identified mitigation and affordable housing in-line with adopted policy.

The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Approval: Subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;
2. The completion of a S106 Legal Agreement to secure the heads of terms above, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.

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, including the addition of any necessary further planning conditions or obligations.

Conditions

Standard time condition:

That in the case of any reserved matter, an 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.

1. Reserved Matters condition

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

- (i) layout,
- (ii) scale,
- (iii) appearance; and
- (iv) 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).

2. Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas

All reserved matters applications shall include a Lighting Assessment, including lux contour plan, for both public-realm and domestic lighting in combination with any existing light sources in the locality to demonstrate compliance with the 0.5lux design parameter set out in the Shadow HRA (EAD Ecology, May 2019).

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

3. Construction Environmental Management Plan – Biodiversity

All reserved matters applications shall include a Construction Environmental Management Plan (*CEMP: Biodiversity*), which shall have been prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

4. Landscape and Ecological Management Plan (LEMP) or equivalent

All reserved matters applications shall include a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, which shall be submitted and shall include, but not be limited to, the following.

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) A habitat phasing plan to ensure habitat is established and functional in advance of impacts.
- d) Aims and objectives of management.
- e) Appropriate management options for achieving aims and objectives. Noting the comments from Natural England with regards to preferred hedgerow management options.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- h) Details of the body or organisation responsible for implementation of the plan.
- i) 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: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

5. Ecological monitoring to provide early warning of threats to bat commuting routes

All reserved matters applications shall include a monitoring strategy which shall be prepared with the purpose *'provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary'*. The strategy will be prepared in accordance with the specifications in BS42020; clause 11.2.3 and shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);
- c) Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bats' commuting routes can be judged;
- d) Methods for data gathering and analysis (to include appropriate bat surveys and light monitoring);
- e) Location of monitoring/sampling points;
- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Contingencies and remedial measures that will be triggered should monitoring detect a change in site conditions;
- i) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the Local Planning Authority at intervals as identified in the Strategy. The report shall also set out where the results from monitoring show that site conditions are changing and consequently how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning bat commuting routes associated with the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030.

6. Highway Works

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure pedestrian crossing facilities adjacent to the existing bus stops to the west of the site within the vicinity of the proposed LEAP and adjacent to the proposed vehicular junction, together with works to create a foot/cycle route that connects the eastern edge of the site to the junction/crossing of Blagdon Road. The agreed works shall be delivered in accordance with the Agreement.

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

7. Flood risk

As part of any reserved matters application a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in-line with the design parameters outlined within the submitted and approved Flood Risk Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development unless a phasing plan has been submitted to and approved by the Local Planning Authority, and shall be subsequently maintained thereafter.

Reason: To ensure that there are no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

8. Affordable Housing

As part of any application for reserved matters relating to the proposal's layout and scale, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority. The submitted details shall include information about the siting, size, and tenure type of the affordable units. The development shall be undertaken in accordance with the approved details.

Reason: In accordance with Policy H2 of the Torbay Local Plan 2012-2030.

9. Biodiversity enhancement measures

As part of any reserved matters relating to layout, appearance and landscaping proposed measures to enhance biodiversity, including the assessment principals that have informed the proposals, shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be implemented in full prior to the first occupation of the development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

10. 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.

11. 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.

12. Energy

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit.

Reason: In the interests of sustainable development and in accordance with Policy PNP1 of the Paignton Neighbourhood Plan and Policy SS14 of the Torbay Local Plan 2012-2030.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS2 – Future Growth Areas
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS9 – Green infrastructure
SS10 – Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SDP3 – Paignton North and Western Area
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

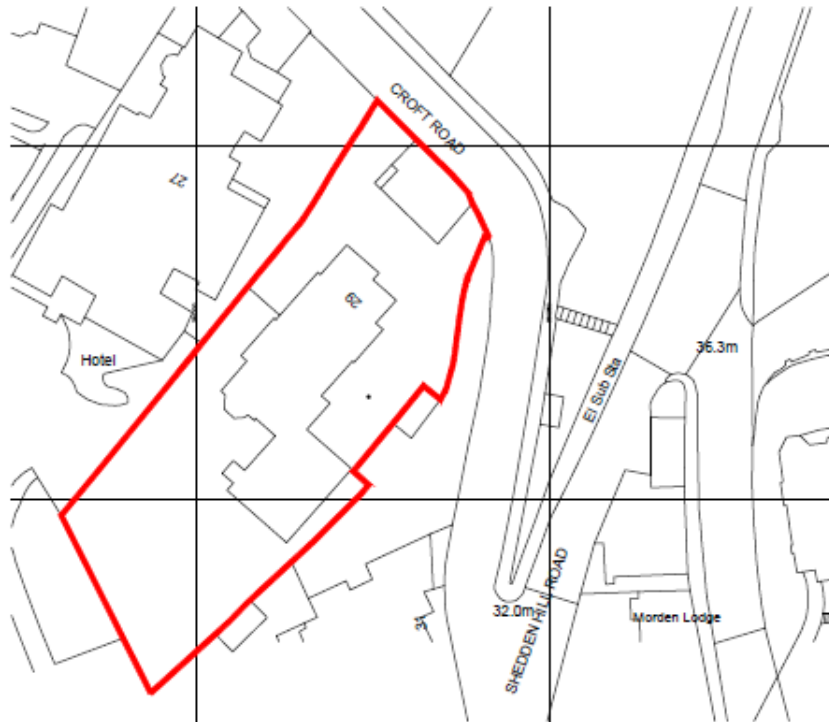
PNP1 – Area Wide

PNP24 – Collaton St Mary Village



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

Location Plan:



Ordnance Survey, (c) Crown Copyright 2018. All rights reserved. Licence number 100022432

Site

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

Details

Description of Development

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

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

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

Pre-Application Enquiry

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

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

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

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

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

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

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

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

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

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

P/1978/2697: Additional bedrooms. Approved.

Summary of Representations

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

Comments raised in support include:

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

Summary of Consultation Responses

Police Designing Out Crime Officer:

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

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

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

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

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

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

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

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

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

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

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

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

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

Torbay Council's Senior Environmental Health Officer:

No objections.

Torquay Neighbourhood Forum:

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

Torbay Council's Interim Heritage Advisor:

For reference my original observations were as follows:-

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

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

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

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

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

Further observations on the amended plans received 20th August 2019:-

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

Torbay Council's Senior Tree and Landscape Officer:

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

Torbay Council's Highways Engineer:

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

Torbay Council's Senior Strategy and Project Delivery Officer:

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

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

Torbay Council's Waste Client Manager:

No objections.

Torbay Council's Drainage Engineer:

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

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

Providing the developer submits the relevant details to demonstrate that the drainage strategy including a controlled discharge rate has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change, I would accept a condition being placed on the planning approval. This condition must identify that following demolition the infiltration testing in accordance with BRE 365 must be undertaken. If the results of this infiltration testing identify that it is feasible to use infiltration drainage on the site the developer must supply a detailed design for the proposed infiltration drainage prior to any construction works being commenced on the site. Only if the infiltration testing identifies that infiltration drainage is not feasible would the developer be allowed to use a controlled discharge to the combined sewer system for this development.

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

There are no plans within the surface water drainage strategy showing the proposed surface water system, attenuation location or location of the discharge to the combined sewer system. The only details that have been submitted is the hydraulic calculations for sizing attenuation. This does not demonstrate that the surface water drainage system for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

The developer must supply a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels,

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

The developer must demonstrate that the surface water drainage for this development has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. Therefore the developer must supply hydraulic calculations for the entire surface water sewer system to demonstrate that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

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

Key Issues/Material Considerations

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

Planning Officer Assessment

1. Principle of Development

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

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

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

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

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

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

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

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

2. Impact on the Character of the Area

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

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy TT2 of the Torquay Neighbourhood Plan states that within designated conservation areas, whether inside or outside of a CTIA, change of use from tourist accommodation and other development proposals requiring consent will be supported in principle to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

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

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

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

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

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

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

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

3. Impact on Residential Amenity

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment.

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

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

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

Each of the habitable rooms proposed within the dwelling are served by sufficient window openings to allow for sufficient outlook and light and as such is considered to offer a good standard of internal amenity for future occupiers. A planning condition can be employed to ensure that parking bay 'P05' is specifically allocated to Unit 1, to protect the future occupier against potential vehicular headlight intrusion. A further planning condition will be employed with regards to Unit 4 to ensure that a suitable scheme of mitigation is provided for the future occupiers, to prevent headlight intrusion into the dwelling's windows from vehicles entering the site and potential nuisance occurring from the use of the communal area.

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

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

4. Impact on Highway Safety

Policy DE3 Development Amenity of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 Development Access of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 Parking Requirements of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future. Policy TH9 goes on to state that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel.

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

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

The Council's Waste Client Manager is satisfied with the proposed waste arrangements. The proposed bicycle storage is not considered adequate given the dimensions of the proposed structure. Conditions are recommended to secure the bicycle storage, refuse storage and the implementation of the proposed parking and manoeuvring provision. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway. Subject to the aforementioned planning conditions, it is considered that the proposal would have an acceptable impacts in terms of highway safety, and would provide sufficient parking spaces.

5. Ecology and Biodiversity

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

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

The PEA discusses potential mitigation measures which are recommended as a planning condition. Subject to the proposed planning condition, the proposed development is considered acceptable with regard to Policy NC1 of the Local Plan.

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

The site is subject to an Area TPO (1976.09 Area 2) and is also located within Belgravia Conservation Area, which affords statutory protection to the trees on site. The application is supported by an arboricultural report and associated plans, to which the Council's Senior Tree and Landscape Officer has stated that the submitted documents fulfil the requirements of BS5837.

The proposed development would necessitate the removal of four trees (two bay trees, a palm tree and an ash tree) and mixed woody shrubs from the site to accommodate alterations to the building and car parking area. The Council's Senior Tree and Landscape Officer has concluded that the scheme is suitable for approval on arboricultural merit subject to the imposition of a planning condition for a suitable landscaping scheme. The proposed development is considered in accordance with Policy C4 of the Local Plan.

6. Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and an area of surface water flooding. The application is accompanied by a Flood Risk Assessment. Due to initial comments received from the Council's Drainage Engineer, the applicant has submitted further information to address the concerns raised with regards to the surface water flood risk, which are considered acceptable.

The applicant must demonstrate that they have investigated a sustainable drainage system and provide details of why this is not feasible for the development site. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the combined sewer must be limited to greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 40% allowance for climate change. It should be noted that where the greenfield run-off rate for the site is below 1.5l/sec, a discharge rate of 1.5l/sec will be accepted. The applicant must submit their design to demonstrate that their surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to their development for the critical 1 in 100 year storm event plus a 40% allowance for climate change.

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

7. Affordable Housing Contributions

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

8. Designing Out Crime

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

Sustainability

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

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106:

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

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

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

CIL:

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

EIA/HRA

EIA:

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

Planning Balance

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

Conclusions and Reasons for Decision

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

Officer Recommendation

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

Conditions

Window and Door Details

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

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

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

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

Materials

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

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

Construction Method Statement

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

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.

- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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

Ecological Impact Assessment

The development shall proceed, and shall be retained thereafter, in full accordance with the 'Potential Impacts and Mitigation' detailed on page 5 of the Preliminary Ecological Appraisal (plan reference 'P20190337-02' received 30th March 2019) hereby approved.

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

Bats and Breeding Birds

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

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

Designing Out Crime

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

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

Permitted Development Rights

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

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

Parking and Manoeuvring Provision

The development hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the plan reference "Proposed Layout" (plan reference "2343-PA-02 (B) received 20th August 2019) have been provided. These elements shall thereafter be retained for the use of the associated dwelling for the life of the development.

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

Landscaping

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

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

Boundary Treatment

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

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

Communal Garden

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

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

Bicycle Storage

Notwithstanding the submitted bicycle storage shown on plan reference '2343-PA 02 B' received 20th August 2019, prior to the first occupation of the development hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

Refuse Storage

Prior to the first occupation of the development hereby permitted, the approved refuse storage on plan reference '2343-PA 02 B' received 20th August 2019, shall be provided in full and retained for the life of the development.

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

Unit 1 – Allocated Parking Space

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

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

Unit 4 – Residential Environment

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

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

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

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

Unit 11 (The Coach House) – Residential Environment

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

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

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

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

Flood Risk Assessment

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

The development shall not be occupied or brought into use until an approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan (2012-2030), the guidance contained in the NPPF, and the requirements of the designation of the Critical Drainage Area by the Environment Agency.

Informative(s)

CIL?

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

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

and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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

04. Community Infrastructure Levy (CIL)

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

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

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

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

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

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

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

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

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

Relevant Policies

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

H2 – Affordable Housing

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

SS10 – Conservation and the Historic Environment

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

TO2 – Change of Use of Tourism Accommodation and Facilities

TH8 – Established Architecture

TH9 – Parking Facilities

THW4 – Outside Space Provision

TT1 – Change of Use Constraints Within and Outside a CTIA

TT2 – Change of Use in Conservation Areas and Listed Buildings