



Friday, 29 November 2019

PLANNING COMMITTEE

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

Monday, 9 December 2019

commencing at **5.30 pm**

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

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

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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 207807

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. **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.)

3. **Urgent Items**

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

4. **1 Pembroke Road, Paignton (P/2019/1083)**

Demolition of existing garage and the formation of two-storey, two-bedroom dwelling.

(Pages 4 - 17)

5. **Kiosk 1, Eastern Esplanade, Paignton (P/2019/0797)**

Change of use from beach manager's office to retail use (A1) with hot and cold food takeaway (A5) for a limited period.

(Pages 18 - 28)

6. **36 Dunstone Park Road, Paignton (P/2019/0689)**

Extension on the southern elevation. Raised ridge height and new roof design to accommodate loft rooms with balcony to southern elevation. Insertion of a driveway.

(Pages 29 - 41)

7. **21 Old Mill Road, Torquay (P/2019/0919)**

Conversion of the former Cockington Primary School to create five two-bedroom apartments; one three-bedroom apartment; one one-bedroom apartment; and four two-storey, three-bedroom dwellings.

(Pages 42 - 62)

8. 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.

9. 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, 4 December 2019. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Application Site Address	1 Pembroke Road Paignton TQ3 3UR
Proposal	Demolition of existing garage and the formation of two-storey, two-bedroom dwelling.
Application Number	P/2019/1083
Applicant	Mr Byron Kay
Agent	Mr Simon Blake
Date Application Valid	11/10/2019
Decision Due date	06/12/2019
Extension of Time Date	13/12/2019
Recommendation	That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due to the number of objections that have been received.
Planning Case Officer	Emily Elliott

Location Plan:



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Site Details

The site, 1 Pembroke Road, Paignton, comprises a semi-detached dwelling and its associated domestic curtilage. No.1 Pembroke Road is attached to the eastern elevation of the neighbouring dwelling No.3 Pembroke Road. The site area is 315 square metres in area. The site currently has vehicular and pedestrian access and a large single storey garage is attached to the existing dwelling. The site levels are sloping, with the proposed dwelling being on slightly lower ground in relation to No.1 Pembroke Road, Paignton. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

Description of Development

The proposal seeks the demolition of the existing single storey garage and the erection of a two storey, two-bedroom dwelling with associated parking and amenity space. The proposed dwelling would include an open living space and cloakroom to the ground floor, and two bedrooms and a bathroom to the first floor. The footprint of the proposed dwelling is approximately 47 square metres, leaving the remainder of the curtilage for outdoor amenity space and an off-street parking provision.

The proposed dwelling would be accessed through the southern side of Pembroke Road. The proposal includes two off-street parking spaces for both the proposed and the existing dwellings. The proposal also includes bin storage.

The external materials for the proposed dwelling would comprise the following finishes: walls of white painted render; roof of concrete tiles to match the existing, and; windows and doors of white uPVC to match the existing.

Pre-Application Enquiry

None.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice
- Planning matters relevant to the case under consideration, including the

following advice and representations, planning history, and other matters referred to in this report:

Relevant Planning History

P/2019/0813: Demolition of existing garage & formation of two-storey dwelling. Refused 06/09/2019.

1. The proposed development would result in an inadequate level of off-street car parking provision. The proposal would therefore exacerbate the existing parking issues in the area resulting in a poor form of development, with a resulting harmful effect on highway safety. As such, the proposal is contrary to Policy TA3 of the Torbay Local Plan.

P/2019/0244: Conversion of existing single storey garage to two bedroom dwelling (Resubmission of P/2019/0013). Refused 23/04/2019.

1. There is insufficient information available to properly determine the acceptability of the proposal's vehicle parking and manoeuvring arrangements, and therefore whether the proposal would be in accordance with Policies TA2 and TA3 of the Torbay Local Plan.
2. The proposed development would provide a poor quality residential environment by reason of the area of internal living space that would be available to future occupiers, which is below that required by Policy DE3 of the Torbay Local Plan. The proposal also fails to provide the minimum 55 square metres of useable outdoor amenity space, which would be sufficiently accessible and private. In light of these deficiencies, it is considered that the proposal would result in an inadequate standard of living accommodation, contrary to Policy DE3 of the Torbay Local Plan.
3. The proposal would result in the over-development of a constrained site, evidenced by the contrived parking and amenity space arrangements. The proposal would result in a crowded form of development, which would be harmful to the character of the area. As such, the proposal is contrary to Policy DE1 of the Torbay Local Plan.

P/2019/0013: Conversion of existing single storey garage to three bedroom dwelling. Withdrawn 19/02/2019.

P/1998/1852: Erection of Garage and Porch. Approved 16/12/1998.

Summary of Representations

32 letters of objection have been received.

A summary of the concerns raised in objection include:

- Not in keeping with local area
- Residential amenity
- Sets a precedent

- Traffic and access
- Overdevelopment
- Impact on local area
- Drainage
- Noise

Summary of Consultation Responses

South West Water:

South West Water has no objection subject to surface water being managed by means of a soakaway as proposed in the Flood Risk Assessment.

Should it be subsequently determined that soakaway drainage is not possible details of any proposal to connect surface water to the public sewer will be required for approval.

Torbay Council's Senior Tree and Landscape Officer:

Having reviewed the above application I can confirm that no further arboricultural input is required. The only concern is shading from the off-site trees and shrubs to the south in the adjacent property. However, the orientation of the building is such that the main living areas are away from the rear of the property.

Torbay Council's Senior Strategy and Project Delivery Officer:

The Highways Standing Advice applies for this proposal. Although existing the access would be extended and intensified. Would the proposed fencing height affect visibility? There are swept paths supplied - presumably parking restrictions would be needed opposite the driveway with consequential loss of on-street parking?

Electric Vehicle Charging facilities and Cycle Storage is not shown. Local Plan Policies TA1, TA2 and TA3 relate. The attached Design and Access Statement states 'Secure cycle locking points will be provided to encourage the use of a sustainable form of transport and to make the occupants less dependent on vehicles'. To align with the Development Plan secure, convenient and covered cycle storage is required.

Torbay Council's Highways Engineer:

No response received.

Paignton Neighbourhood Forum:

No response received.

Key Issues/Material Considerations

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity

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

Planning Officer Assessment

1. Principle of Development

The proposal is for the demolition of the existing garage and the formation of two-storey two-bedroom dwelling within the curtilage of an existing dwellinghouse.

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 small contribution to this shortfall being addressed. The proposal would therefore comply with Policy H1 of the Local Plan. There are no Development Plan policies indicating that the proposal is not acceptable in principle.

2. Impact on Visual Amenity

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

The proposal seeks to demolish the existing single storey garage and erect a two-storey, two-bedroom dwelling with associated parking and amenity space. The proposed dwelling would include an open living space and cloakroom to the ground floor, and two bedrooms and a bathroom to the first floor. The footprint of the proposed dwelling is approximately 47 square metres, leaving the remainder of the curtilage for outdoor amenity space and an off-street parking provision. The materials for the proposed dwelling would comprise the following: the walls are proposed to be white painted render; the roof is proposed to be concrete tiles to match the existing; and the openings are proposed to be white uPVC to match the existing.

Objectors have raised concerns that the proposed development: represents overdevelopment; is not in keeping with the local area; sets a precedent, and; it would have a negative impact on the local area. It is considered that the proposal would not

have a detrimental impact on the existing street scene as the proposed dwelling has a similar appearance and characteristics to that the existing dwellings sited on Pembroke Road.

The relationship of the proposed siting of the new dwelling to existing dwellings, within the context of the street scene, is considered to be acceptable. In terms of the scale of the proposed footprint of the new dwelling adequate outside space is retained for both the proposal and No.1 Pembroke Road. The overall footprint is considered to be consistent with the urban grain of the area and without detriment to the character and appearance of the locality. The general scale of development is considered commensurate with the locality when considering the mix of dwellings in the area. It is considered that there is scope for a dwelling within the plot which will assist in the provision of new housing in a sustainable location.

It should be noted that the site slopes to the east, however it is considered that the proposal positively addresses the topography and provides a dwelling of a reasonable size, scale and massing. The existing plot will be subdivided, however it is considered acceptable due to the current plot size as an adequate level of external space will be provided around both the proposed and existing dwelling.

When considering the design of the proposed dwelling, regard must be given to the surrounding street scene, the proposed dwelling would maintain a similar appearance of the surrounding dwellings. It is considered that: the proposed scale and massing, respects the context of the area, and as such the proposal is considered to be acceptable in terms of design and impact on the street scene; given the site area and the footprint of the dwelling, the site can accommodate the proposal, and there would not be a resulting overdevelopment of the site; the proposal would suit the existing street scene, in terms of design, external finish and roof type. Therefore, it is considered that the design, size and scale of the proposed dwelling is acceptable.

The proposal does not include any landscaping details, therefore a requirement to submit a landscaping scheme is therefore recommended alongside conditions relating to proposed external materials and details of boundary treatment.

Given the siting, scale, and design of the proposal it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality.

Subject to the aforementioned planning conditions, the proposal is considered acceptable in relation to Policy DE1 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and the guidance contained in the NPPF.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan which relates to development amenity requires that new

residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 55 square metres for new dwellings.

Internal floor standards are set out from the DCLG technical housing standards document. This states the minimum internal floor space which should be provided and gives guidance on the minimum floor area. The minimum internal floor spaces set out by this guidance and reflected in Policy DE3 shows that a minimum floor space of 70 square metres is required for a two-bedroom, three-bed spaces, two-storey dwelling. The proposed dwelling has an internal floor space of approximately 73 square metres, which exceeds the minimum standards. The submitted plans indicate an outdoor area to be retained for the existing dwelling of 60 square metres. The proposed dwelling's amenity space is subdivided into two areas, which would not be connected, which have a combined area of 62 square metres. The proposed and retained amenity areas would comply with the criteria stated in Policy DE3 of the Local Plan.

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

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Objectors have raised concerns in terms of noise and residential amenity. The distances between the proposed dwelling and adjacent dwellings are considered acceptable and would not have a detrimental impact upon the occupiers of these dwellings given the substantive distances.

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

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours, in terms of their outlook, access to light, and privacy. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

4. Impact on Highway Safety

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

vehicle parking, bicycles and storage of containers for waste and recycling. Policy PNP1(d) of the Paignton Neighbourhood Plan states that new residential development should aim to achieve where appropriate and subject to viability space for solid waste storage within the curtilage and purpose designed cycle parking space that is covered, safe and convenient.

Objectors have raised concerns regarding traffic and access in relation to the proposed development, mainly having regard to the loss of on-street parking. Taking account of the Standing Advice for Minor Development Applications', the access is existing and would be extended to accommodate the traffic associated with the additional dwelling. A number of dwellings on Pembroke Road and New Park Road have existing areas of hardstanding, it is considered that given the existing vehicle crossover, the proposal to extend this would result in the loss of one on-street parking space. The extended vehicle crossover and new vehicular hardstanding would create a further two off-street car parking spaces in replacement of the loss of one on-street parking space. This is considered acceptable and would not cause any significant harm to highway safety. Suitable visibility at the point of access will form part of the future consideration of proposed boundary treatments.

The proposal provides adequate off-street parking provision for two vehicles for both the existing and proposed dwellings. The parking space size requirements are set out in Policy TA3 and Appendix F of the Local Plan with off-street parking spaces that abut the public highway requiring 3.2 metres by 5.5 metres, and when there are two combined spaces the dimensions required are 5.6 metres by 5.5 metres. The proposed parking area measures some 5.7 metres by 5.6 metres for the proposed dwelling and 5.7 metres by 6 metres for the existing dwelling. The proposal would therefore comply with Policy TA3 and Appendix F of the Local Plan. The proposed layout indicates bin storage for the proposed dwelling, but does not indicate any bicycle storage nor electric charging point, planning conditions to secure these items is considered sufficient.

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

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 Assessment. The report findings stated that

there was no evidence of bats or breeding birds. No further surveys are required. The proposal therefore complies with Policy NC1 of the Local Plan.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role. The 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. Policy PNP1(i) Surface Water of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment. Objectors have raised concerns with regards to drainage. South West Water raise no objection to the proposed development and means of drainage. Given the nature of the proposal being in excess of 20 square metres, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice.

A condition will be imposed to secure acceptable surface water drainage arrangements and, subject to its use, the proposal will be in accordance with Policy ER1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would be located on land that utilises previously developed land within the existing urban area.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8. 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 Act requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

Not applicable.

Planning Balance

In its favour the proposal will provide an additional dwelling, which meets the required residential space and parking standards in a sustainable location where development plan policy supports the principle of the development. The report gives consideration to the issues raised in the objections received and concludes that these are not of sufficient weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

Conclusions and Reasons for Decision

The proposal is: acceptable in principle; would not result in unacceptable harm to the character of the area, 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 therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

Officer Recommendation

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

Conditions

Materials

The dwelling hereby approved shall not be occupied or brought into use until the materials detailed on the plan referenced "Proposed Various" (plan reference "3995-11 B" received 11th October 2019), shall be provided in full and retained for the life of the development.

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

Bicycle Storage

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

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

Refuse Storage

Prior to the first occupation of the development hereby permitted, the approved refuse storage on plan reference "3995-11 B" received 10th October 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.

Parking Provision

The dwelling hereby approved shall not be occupied or brought into use until the parking spaces detailed on the plan referenced "Proposed Various" (plan reference "3995-11 B" received 11th October 2019) have been provided. These elements shall thereafter be retained for the use of the associated dwelling for the life of the development.

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

Construction Method Statement

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

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

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

Landscaping

Prior to the first occupation of the development hereby permitted, provision shall be made for hard and soft landscaping according to details which shall previously have been submitted to and agreed 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 four 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 Design 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: To secure an appropriate form of development in accordance with Policies C4, DE1, DE3, HE1 and SS10 of the Torbay Local Plan 2012-2030.

Permitted Development Rights

Notwithstanding the provisions of Classes A to E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no enlargements, improvements or other alteration shall take place to either the proposed or existing dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

Flood Risk Assessment

In accordance with the submitted flood risk assessment received 11th October 2019, 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 Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Informative(s)

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.

02. Responsibilities of the applicant / developer:

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

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

Relevant Policies

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in Favour of Sustainable Development

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

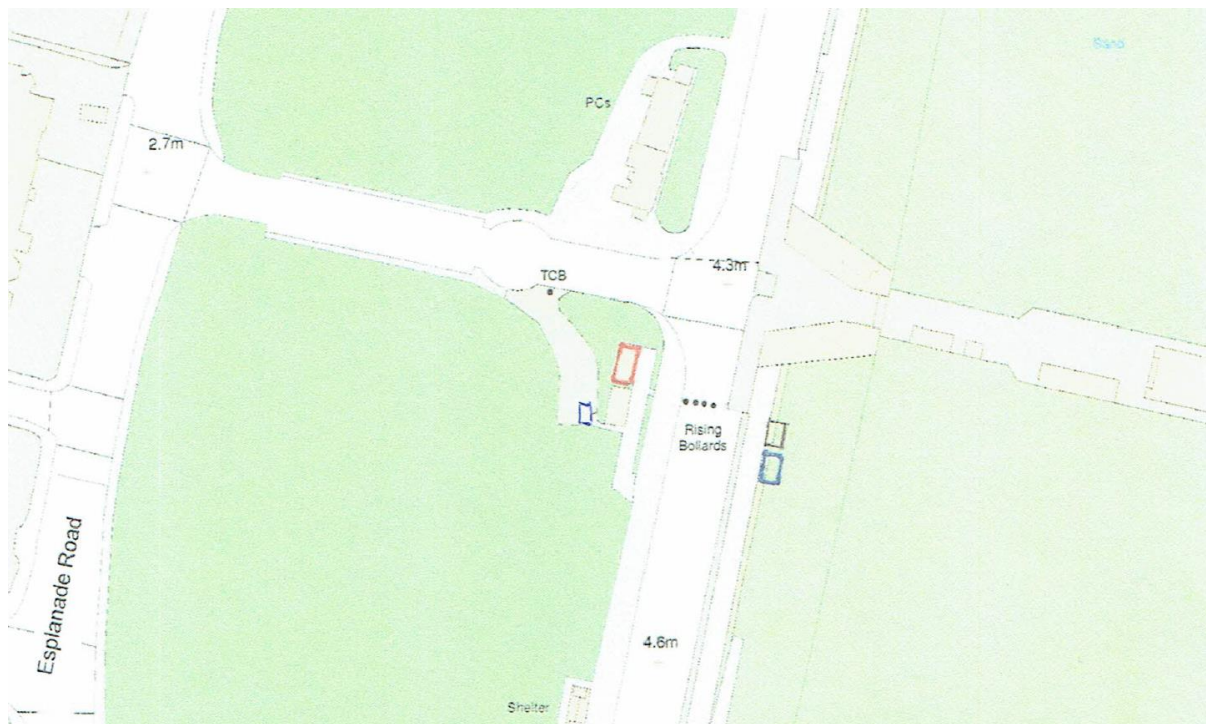
PNP1(c) – Design Principles

PNP1(d) – Residential Development



Application Site Address	Kiosk 1 Eastern Esplanade Paignton TQ4 6BW
Proposal	Change of use from beach manager's office to retail use (A1) with hot and cold food takeaway (A5) for a limited period.
Application Number	P/2019/0797
Applicant	Mr Michael Keates
Agent	Mrs Denise Pichler
Date Application Valid	06/08/2019
Decision Due date	01/10/2019
Extension of Time Date	13/12/2019
Recommendation	That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due to the proposed development is on land owned by Torbay Council and the application has received objections.
Planning Case Officer	Emily Elliott

Location Plan:



Site Details

The site is a small single storey kiosk that was initially erected under Local Authority permitted development rights and originally served as a Beach Manager's Office. The site is currently operating as an unlawful use. The kiosk is approximately 18 square metres. The site is also located within Flood Zones 2 and 3.

Description of Development

The proposal seeks to regularise the current change of use from beach manager's office to retail use (A1) with hot and cold food takeaway (A5) for a limited period. The use of the kiosk is intended to alternate depending on the seasons of the year: during the summer for retail, the sale of beach goods and associated items, and in the winter for hot and cold food takeaway.

It is leased in tandem with a further kiosk on the opposing side of Eastern Esplanade, That kiosk (which is not the subject of this application) is removed out of season.

The two kiosks are advised as providing four part-time jobs, with the applicant working between the two kiosks on a full-time basis.

The change of use does not include any external alterations to the existing kiosk.

Any advertisement consent required would be subject of a separate application.

Pre-Application Enquiry

None.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

No relevant planning history relates to the site.

Summary of Representations

17 letters of objection have been received.

A summary of the concerns raised in objection include:

- Use of premises

- Impact on local businesses

Planning Officer Response: *Competition between businesses is generally not regarded as being a material planning consideration, however, the principle of a tourist facility is considered within the principle of development section of the report.*

- Public consultation

Planning Officer Response: *The application was advertised by both site notice and neighbour notification letters. The application has been advertised twice, given the change in description. Both times, the site notice was erected on the lamppost closest to the site.*

- Submitted plans

Planning Officer Response: *The application was validated in accordance with the Torbay Council's validation list. It is not considered necessary to submit proposed and existing elevations given no external alterations are proposed and any advertisement may require a separate application.*

Summary of Consultation Responses

Torbay Council's Senior Environmental Health Officer:

No objections.

- 1. Food areas must comply with Food Hygiene legislation, including registering the business with this Department 28 days prior to opening.*
- 2. You must have suitable refuse areas inside and outside the premises. Refuse must be deposited in closable containers which can be kept clean and disinfected. Refuse areas must be kept clean. Any other types of containers or system must be agreed by the Authority.*
- 3. You must have a commercial waste contract for collection of your trade refuse.*
- 4. Suitable equipment shall be installed to treat and disperse emissions from cooking operations on the premises. The developer would be best advised to have reference to the following document: Control of Odour and Noise from Commercial Kitchens Exhaust Systems – 2004 (Update prepared by NETCEN for the Department for environment, Food, and Rural Affairs). Details of the proposed equipment, including noise levels and odour abatement, shall be submitted to the*

Local Planning Authority for written approval prior to commencement of the development. Please refer to the suggested document's Appendix 2: 'Information Required to Support Planning Applications for Commercial Kitchens' and Appendix 3: 'Risk Assessment for Odour' for details of what is required to be submitted.

The equipment must be implemented in accordance with the approval. Following installation, the equipment shall be operated and maintained in accordance with manufacturer's instructions for as long as the proposed use continues.

5. *You must consider your legal obligations under the Health and Safety at Work etc Act 1974.*
6. *The premises must comply with the Health Act 2006 to ensure all enclosed areas are smoke-free. Any designated smoking areas must comply with the legislation and be non-substantially enclosed.*

Torbay Council's Senior Environmental Health Officer:

No objection in principal. However, I am aware that a number of kiosks serving food along the seafront have been found in the past not to have their sink waste connected to the foul sewerage system, and as such I would suggest that confirmation is sought that this is the case before approval is given. If you have any queries or concerns then please contact me on the above extension number.

Torbay Council's Highways Engineer:

No technical Highways issues.

Torbay Council's Senior Strategy and Project Delivery Officer:

This application site lies within the Paignton Neighbourhood Plan PNP1 b) Local Green Space PLGS 01 Paignton Green North, Central and south. The site is also located within PNP4 Seafront and PNP14 Paignton Neighbourhood Plan Core Tourism Investment Area and PNP15 Flood and Sea Defences (which includes financial contributions towards sea defences).

The Local Green Space was designated with these units in place, and it is not unreasonable to expect small kiosk facilities in the Core Tourism Investment Area Seafront Area (Torbay Local Plan Policy TO1) which complement and do not detract from Town Centre uses (Torbay Local Plan Policy TC3). I think this argument could be made in the context of PNP1b) above, as there is an existing unit on site.

I note the pedestrian ramped access to the esplanade but would seek cycle parking/storage for staff/visitors and if the car parking is included (and deemed acceptable) the provision of an electrical car charging facility. There is no clarity as to the number size and frequency of provision of deliveries which should not park on the

cycle lane or footpath. This should also consider the seasonal restrictions/bollards used on the Esplanade.

Environment Agency:

No response received.

Torbay Council's Drainage Engineer:

No objections, subject to the mitigation measures being carried out that are stated in the site specific flood risk assessment.

South West Water:

No objections.

Paignton Neighbourhood Forum:

No response received.

Key Issues/Material Considerations

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

Planning Officer Assessment

1. Principle of Development

The proposal is for a change of use from a beach manager's office to a retail use (A1) with hot and cold food takeaway (A5) for a limited period. Kiosk 1 (the application site identified in red on the submitted block plan) is to be used for the sale of hot and cold food to takeaway (A5) when Kiosk 2 (identified in blue on the block plan) has been removed from the land, and at no other time. Objectors have raised concerns with regards to the operating use of the kiosk.

Policy TO1 of the Local Plan supports in principle the improvement of existing and provision of new tourist accommodation and attractions, particularly proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark. Given that the application site is located within the Paignton Seafront, Harbourside and Green Core Tourism Investment Area, and as the proposal involves a change of use which retains a function as a tourist facility, it is deemed that the principle of the development is acceptable, subject to compliance with other relevant Local Plan policies.

Policy PNP4 of the Paignton Neighbourhood Plan is relevant to this application, which states that improvement of the seafront will be encouraged, including upgrading the public realm and public shelters to provide enhanced seating, weather protection and information facilities that improve the tourism offer. It is considered that the proposal complies with this policy.

Policy TC3 of the Local Plan is for retail development proposals in Torbay. The site lies in close proximity to Paignton Town Centre, and despite not lying within a retail centre, it is easily accessible from, well connected to and in close proximity to Paignton Town Centre and thus is covered by Policy TC3 as the site qualifies as an edge-of-centre proposal. Due to its diminutive nature, it is considered that the proposal is of a scale and nature which complements the role and character of the area, as it offers refreshments to those visiting the seaside location. The proposal would not result in harm to the vitality and viability of Paignton Town Centre and would provide a positive tourist facility to Paignton Seafront. The proposal should not cause any unacceptable impacts (individually or cumulatively) on the existing centre or undermine any special cultural or tourism appeal and will not result in the loss of key retail, tourism, cultural or other facilities. On balance, the proposal is considered to comply with Policy TC3 of the Local Plan due to its edge-of-centre location and diminutive nature and the guidance contained within paragraph 87 of the NPPF.

Policy PNP1(b) of the Paignton Neighbourhood Plan is applicable to this application, as the site falls within the designated Paignton Green Local Green Space. Policy PNP1(b) states that 'proposals for new developments will only be supported in very special circumstances. 'Very special circumstances' will not exist unless the potential harm of these Local Green Spaces by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'. The Paignton Neighbourhood Plan was adopted in June 2019, the kiosk which is the subject of this application was in place prior to this designation and it is not unreasonable to expect a small kiosk serving a tourism purpose within an area which is also designated as a Core Tourism Investment Area. The siting of the kiosk is established and did not require planning permission as it was considered to be erected by the Local Authority exercising their permitted development rights.

There are no Development Plan policies indicating that the proposed development is not acceptable in principle.

2. Impact on Visual Amenity

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

proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The site is also located within the Paignton Green North Urban Landscape Protection Area (ULPA) as defined by Policy C5 of the Local Plan. Policy C5 states that development within the ULPA will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

As the kiosk is an existing structure within the ULPA, and no external alterations are proposed, it is considered that the proposal does not undermine the value of the ULPA as an open or landscaped feature within the urban area. The visual impact of the kiosk is established, as the kiosk is an established structure erected under permitted development.

There are a handful of permanent and seasonal kiosks located along Eastern Esplanade and within the nearby vicinity. Given its siting, scale, and design it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality. The proposal is considered to be in accordance with Policies DE1, C5 and PNP1(c) of the Development Plan, and the guidance contained in the NPPF.

3. Impact on Residential Amenity

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

Environmental Health have provided comments in relation to food and safety and raise no objection to the proposal. Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours.

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

4. Impact on Highway Safety

Policy TA1 of the Local Plan promotes improvements to road safety. Policy TA2 of the Local Plan requires appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety to satisfy the transport needs of the development. Policy TA3 of the Local Plan sets out requirements for appropriate provision of car, commercial vehicle and cycle parking spaces in all new development.

The site includes one existing dedicated parking space which is to the rear of the kiosk. There is also an existing delivery area to the rear of the kiosk that is to be kept clear and used by delivery vehicles and refuse vehicles. The proposal would involve the two deliveries a week. The Council's Highways Engineer raises no objection to the proposal. The Council's Senior Strategy and Project Delivery Officer has stated that due to the nature of the proposal a provision should be made for bicycle parking for both staff and visitors. Given the nature of the proposal, visitors will access the site on foot whilst visiting the area and such traffic will be in the form of passing trade. It should be noted that there is also a pay and display parking provision along Eastern Esplanade. Details of refuse and recycling storage has not been provided, therefore a planning condition is recommended to secure such details.

Subject to the aforementioned planning conditions, it is considered that the proposed development complies with Policies TA1, TA2 and TA3 of the Local Plan.

5. Flood Risk and Drainage

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy. Policy PNP15 of the Paignton Neighbourhood Plan is applicable, the Policy states development proposals in locations at risk of flooding from seawater will be required to make financial contributions towards the strengthening of sea defences in accordance with Torbay Council CIL regime or S106 Obligation.

The site is located within Flood Zones 2 and 3, and the application is accompanied by a site specific Flood Risk Assessment. The Environment Agency have not responded to the consultation request. South West Water raise no objections to the proposed change of use. The Council's Drainage Engineer raises no objection to the proposal, subject to a planning condition to secure the mitigation measures that are stated in the submitted site specific flood risk assessment. Given the diminutive nature of the proposal and it being an existing structure, it is not considered viable to require a financial contribution towards the strengthening of sea defences.

Therefore, a planning condition is recommended to secure the mitigation measures outlined in the submitted site specific flood risk assessment, and subject to the aforementioned planning condition, it is considered that the proposal complies with Policy ER1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development is in a sustainable location inasmuch as it would be utilising a redundant kiosk.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8. 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 Act requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

Not applicable.

Planning Balance

Whilst objections have been raised to the proposal the report has considered and has concluded these are not of a weight to warrant refusal. The proposal is considered to be in compliance with the development plan and is considered acceptable.

Conclusions and Reasons for Decision

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area, local amenity and retail/tourist offer, and; would provide adequate arrangements in relation to access and flood risk. The proposed development is considered acceptable, having regard to the Development Plan, and all other material considerations.

Officer Recommendation

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

Conditions

Flood Risk Assessment

The development hereby approved shall be operated in accordance with the submitted and approved flood risk assessment received 21st October 2019 (plan reference 'P2019-0797-10').

Reason: In the interests of managing flood risk to occupiers in accordance with the National Planning Policy Framework, and to comply with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030.

Bicycle Storage/Parking

Prior to the first use of the development hereby permitted, provision shall be made for the storage and parking 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 and TA3 of the Adopted Torbay Local Plan 2012-2030.

Bin Storage

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

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

Ventilation/Extraction Systems

Prior to the first use of the development hereby approved, details of the means of ventilation for the extraction and dispersal of cooking smells/fumes, including the method of construction, odour control measures as appropriate, and noise levels, have been submitted to and approved in writing by the Local Planning Authority. The

approved scheme shall be fully installed before the use hereby permitted commences and thereafter shall be permanently retained.

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

Foul Water

Prior to the first use of the development hereby approved, details of the means of the disposal of foul water from the kiosk shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented before the use hereby permitted commences and thereafter shall be permanently retained.

Reason: In the interests of amenity and in adapting to climate change and managing flood risk, and in order to accord with Policies DE3, ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Informative(s)

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

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

TC3 – Retail Development

TO1 – Tourism, Events and Culture

PNP1(b) – Local Green Space

PNP1(c) – Design Principles

PNP1(i) – Surface Water

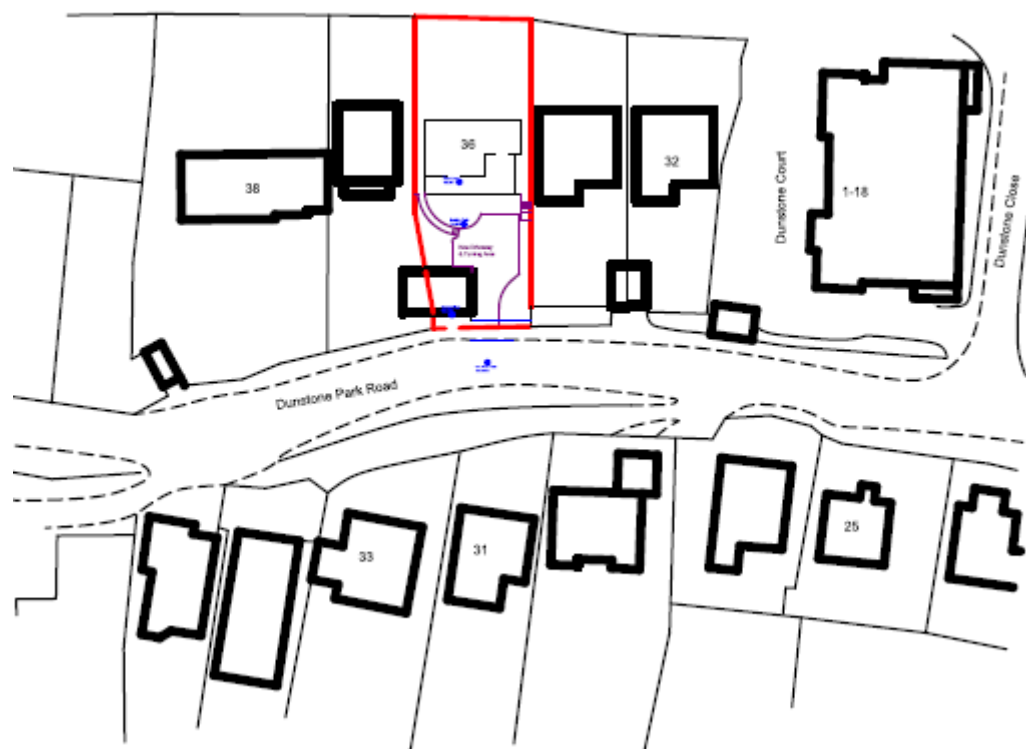
PNP4 – Seafront

PNP15 – Flood and Sea Defences



Application Site Address	36 Dunstone Park Road Paignton TQ3 3NG
Proposal	Extension on the southern elevation. Raised ridge height and new roof design to accommodate loft rooms with balcony to southern elevation. Insertion of a driveway.
Application Number	P/2019/0689
Applicant	Mr & Mrs Daniel
Agent	Mr Brian Horrocks
Date Application Valid	17/07/2019
Decision Due date	11/09/2019
Extension of Time Date	13/12/2019
Recommendation	That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due to the number of objections that have been received.
Planning Case Officer	Emily Elliott

Location Plan:



Site Details

The site comprises of a detached bungalow, located on the northern side of Dunstone Park Road. The topography of Dunstone Park Road varies significantly, with dwellings on the northern side of Dunstone Park Road being set up from the existing street scene and on substantial higher ground compared to those dwellings on the southern side being set down from the existing street scene. The site currently has vehicular access in terms of an area of hardstanding and a garage and pedestrian access. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

Description of Development

The proposal seeks to erect an extension to the southern elevation of the existing single storey dwelling which would infill the existing recess in the current floorplan on the south eastern corner and also extend the front of the building 2 metres beyond the original, existing main front wall. The proposal includes a new roof over the extended footprint, replacing the existing L-shaped roof form, raising the ridge height of the dwelling from 6.4 metres to 7.6 metres to provide a new first floor which will include a balcony on the southern elevation. The overall width of the dwelling when viewed from the street to the south would not increase. The proposal also includes the laying out of a new driveway and manoeuvring area within the front garden area.

The external materials proposed would comprise the following: Grey concrete interlocking roof tiles; uPVC windows and doors; stainless steel and glass balcony balustrading; horizontal uPVC cladding for external walls and a facing brick plinth to the front elevation (south), with sand and cement render to side and rear elevations (north, east and west).

Pre-Application Enquiry

None.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Published standing Advice

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

Relevant Planning History

P/2007/0350: Extend Living Accommodation At Rear; Extend Single Garage Into Double Garage At Front. Approved 03/01/2008.

Summary of Representations

8 letters of objection have been received (it should be noted that one contributor made 3 objections, whilst another contributor made 2 objections) and 1 letter of support have been received.

A summary of the concerns raised in objection include:

- Not in keeping with local area
- Privacy/overlooking
- Residential amenity
- Sets a precedent
- Traffic and access
- Trees and wildlife
- Overdevelopment
- Overbearing
- Impact on local area
- Drainage
- Loss of light
- Noise
- Loss of view

Planning Officer Response: The right to a private view is not regarded as being a material planning consideration.

- Valuation of properties

Planning Officer Response: The valuation of dwellings is not regarded as being a material planning consideration.

- Amended plans

Planning Officer Response: It is at the Case Officer's discretion as to whether they wish to re-consult or re-advertise the proposal. As the amendments were a reduction when considered to the originally submitted plans, it was considered unnecessary to re-consult as it would have less of an impact on adjacent neighbours.

- Inaccurate plans

Planning Officer Response: The agent signed the declaration on the application form which states they have applied for planning permission as described in the form and the accompanying plans/drawings and additional information are to the best of their knowledge and any facts stated are true and accurate.

Comments raised in support include:

- Alleviates parking congestion
- Impact on local area
- Refurbishment and modernisation

Summary of Consultation Responses

Paignton Neighbourhood Forum:

No response received.

Key Issues/Material Considerations

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

Planning Officer Assessment

1. Principle of Development

The proposal is for the substantial alteration and extension of an existing dwelling to provide an enlarged ground floor and new first floor, together with provision of a driveway and manoeuvring area in the front garden area.

There are no Development Plan policies indicating that the proposed development is not acceptable in principle.

2. Impact on Visual Amenity

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

The proposal seeks to substantially extend and effectively remodel the existing dwelling, providing a new first floor beneath a new roof, without increasing the overall

width of the dwelling. A driveway and manoeuvring area would be provided within the front garden. External materials proposed would comprise: Grey concrete interlocking roof tiles; uPVC windows and doors; stainless steel and glass balcony balustrading; horizontal uPVC cladding for external walls and a facing brick plinth to the front elevation (south), with sand and cement render to side and rear elevations (north, east and west).

Objectors have raised concerns that the proposal would: represent overdevelopment; not be in keeping with the local area; set a precedent, and; have a negative impact on the local area. The supporter has stated that the proposal would have a positive impact on the local area.

When considering the proposed development in the context of the existing street scene, it is sufficiently set back from the highway in line with neighbouring dwellings so as not to have an immediately overbearing or overly dominant visual effect in the streetscene. In terms of the building footprint within the plot, the proposal will result in a substantial increase over the existing. However, the increased footprint proposed is considered to be consistent with the local urban grain and ratio of building footprints to plot areas, without detriment to the character and appearance of the locality. The other existing dwellings within the existing streetscene have a sufficiently diverse and wide range of sizes, scales and design characteristics, that the proposal cannot be assessed to set a precedent.

The general scale is considered commensurate with the surrounding built form taking into account the mixture of dwellings in the area, some of which have already been extended. It is considered that there is scope for substantial extension to the existing dwelling and that the proposal positively addresses the topography of the site and provides a dwelling of a reasonable size, scale and massing.

The proposed design must be read within the visual context of the surrounding street scene where there is already a diverse mixture of house types and designs. The proposal is considered to be acceptable in terms of design and impact on the existing street scene as there is no distinct, prevalent house type or character which the proposal ought to be following. The proposal modernise and refurbish an existing dwelling to provide a new, but contemporary, visual appearance. A planning condition would require the developer to control the quality and impact of external materials upon the proposal before any work may commence on site.

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

3. Impact on Residential Living Conditions

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Objectors have raised concerns in terms of loss of light, privacy/overlooking, noise and residential living conditions.

Privacy

The proposal would not include any openings on the side elevations (east and west) and so the proposal would not overlook or invade the privacy of Nos.34 and 36A Dunstone Park Road.

The site faces No.31 Dunstone Park Road, which is set at a substantially lower level due to the prevailing topography. The intervening un-adopted road provides a substantial distance between the two dwellings and therefore it is considered that the proposed development would not invade the privacy of the occupants of No.31. To the rear (north) of the site is No.11 Dixon Close and whilst the proposal would provide a new first floor to the existing dwelling, the existing boundary treatments and vegetation between the proposal and the adjacent dwelling provides effective screening within a substantial separating distance (of over 20 metres) between the rear elevations of the dwelling and adjacent neighbouring dwelling.

Noise

In terms of the concerns regarding noise, the existing use is residential accommodation and the proposal maintains this use. Therefore, it is considered that the proposed development would have no further detrimental impact on neighbouring occupiers with regards to noise. The proposed development will alter the existing internal layout of the dwelling, ensuring each of the habitable rooms are served by sufficient window openings to allow for sufficient outlook and light to offer a good standard of living conditions for the occupiers of the dwelling. A construction method statement will be recommended as a condition to ensure that the construction works are undertaken in a manner that is not injurious to local amenity, this will mitigate any concerns raised regarding noise.

Daylight

With regards to the concerns about the loss of light the proposed development would cause, it should be noted that No.34 Dunstone Park Road has two openings on its western side elevation that faces the eastern side elevation of the site. On the side elevation, the window (a) nearest the front of the house serves as a secondary window to a living room area and (b) closest to the rear of the house serves as a secondary window to the kitchen/dining area. The habitable rooms of No.34 Dunstone Park Road are served by larger, main windows on the northern and southern elevation. It is,

therefore, considered that the proposed development would not have a detrimental impact on the occupiers of No.34 Dunstone Park Road in terms of access to natural daylight.

With regards to No.36A Dunstone Park Road, in terms of their eastern side elevation facing the western side elevation of the dwelling, there is a door to the ground floor which provides access into the dwelling and two windows to the first floor. The objector has indicated that they serve bedrooms. It is likely that the window at first floor on the side elevation that is closest to the rear of the dwelling, is a secondary bedroom window. The proposed development will not extend northwards beyond the current rear wall of the dwelling and it is, therefore, considered that the proposal will not have a detrimental impact upon living conditions of the occupiers of No.36A Dunstone Park Road. As for the other window at first floor, the objector has indicated it is a bedroom, however the applicant considers that it serves a hallway, the window anyhow is considered to be unneighbourly to the site. The proposed development is not considered to be detrimental to this opening in terms of outlook or loss of light. Accordingly, it is considered that the proposal would not be likely to have a detrimental impact on the occupiers of No.36A Dunstone Park Road in terms of access to natural daylight.

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

4. Impact on Highway Safety

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

Objectors have raised concerns regarding traffic and access in relation to the proposed addition of a new driveway and manoeuvring area. The 'Highways Development Control Standing Advice for Minor Development Applications' would apply to this scheme. The proposal provides adequate off-street parking provision for two vehicles.

The parking space sizes proposed meet the dimension requirements set out in Policy TA3 and Appendix F of the Local Plan with off-street parking spaces not abutting the public highway requiring 2.4 metres by 4.8 metres. It should also be noted that the site also benefits from an existing garage and area of hardstanding. Although the

dwelling would be substantially enlarged with increased accommodation it remains a single dwelling in terms of potential traffic generation. The proposal would, therefore, comply with Policy TA3 and Appendix F of the Local Plan.

Subject to a suitably worded planning condition requiring the parking provision to be made before the dwelling is re-occupied in its enlarged form, it is considered that the proposed development complies with Policies TA1, TA2 and TA3 of the Local Plan.

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.

Objectors have raised concerns regarding wildlife. The application is supported by a Preliminary Ecological Assessment. The report found no evidence of bats, however with regards to nesting birds House Sparrows were found to be nesting in the front gable of the dwelling. The report also found that slow worms are present on site and evidence of small ground-level 'tunnels' associated with hedgehogs. The report states that no further surveys or assessment is required. Subject to a planning condition securing compliance with the recommendations of the Preliminary Ecological Assessment, the proposal is considered acceptable with regard to Policy NC1 of the Local Plan.

6. Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment. Given the scale of the proposal exceeds 20 square metres, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice.

Subject to a condition to secure acceptable surface water drainage arrangements, the proposal will be in accordance with Policy ER1 of the Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development is sustainable inasmuch as it would utilise and redevelop an existing dwelling within the existing urban area.

Statement on Human Rights and Equalities Issues

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8. 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 Act requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

Not applicable.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the Development Plan policy supports the principle of the development. The report gives consideration to the objections raised and concludes

that these issues are not of weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

Conclusions and Reasons for Decision

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

Officer Recommendation

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

Conditions

External Materials

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

Reason: In the interests of visual amenity and in accordance with Policy DE1 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 awaited) have been provided. These elements shall thereafter be retained for the use of the associated dwelling for the life of the development.

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

Construction Method Statement

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

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

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

Preliminary Ecological Assessment

The development shall proceed, and shall be retained thereafter, in full accordance with the approved ecological report (plan reference 'P2019-0689-2' received 17th July 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.

Flood Risk Assessment

In accordance with the submitted flood risk assessment received 11th October 2019, 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 Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Obscure Glazing

Prior to the occupation of the extension hereby approved, the first floor en-suite window in the northern elevation of the development hereby approved shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. This window shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The window shall thereafter be permanently retained in that condition.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

Informative(s)

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.

02. Responsibilities of the applicant / developer:

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

03. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the

applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

NC1 – Biodiversity and Geodiversity

TA1 – Transport and Accessibility

TA2 – Development Access

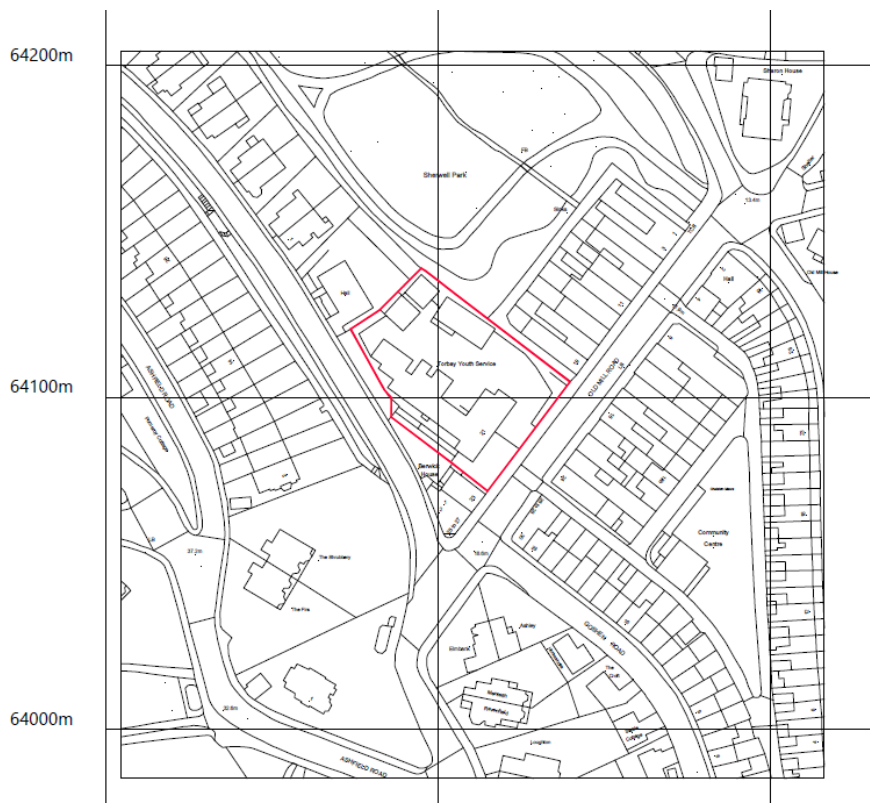
TA3 – Parking Requirements

PNP1(c) – Design Principles



Application Site Address	21 Old Mill Road Torquay TQ2 6AU
Proposal	Conversion of the former Cockington Primary School to create five two-bedroom apartments; one three-bedroom apartment; one one-bedroom apartment; and four two-storey, three-bedroom dwellings.
Application Number	P/2019/0919
Applicant	Cockington School House Limited
Agent	Miss Faye Stewart – Bailey Partnership
Date Application Valid	01/10/2019
Decision Due date	31/12/2019
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due it being of a major nature.
Planning Case Officer	Emily Elliott

Location Plan:



Site Details

The site is occupied by a 19th Century former school building, three temporary classrooms and associated car parking. There is an existing vehicular access to the site from Old Mill Road. The site area is 2,258 square metres in area and lies on the north-western side of Old Mill Road. The site is adjacent to, but not within, the Chelston Conservation Area. To the northwest of the site is a Christadelphian Hall and to the north is Sherwell Park. To the northeast of the site is a service lane that divides the site from the local amenities of Old Mill Road, Chelston Local Centre and residential accommodation. Similarly, to the southeast of the site, is Old Mill Road which divides the site from local amenities and residential accommodation.

The site is adjacent Chelston Local Centre as defined by Policy TC2 of the Torbay Local Plan. The site is within Flood Zone 1, which is a Critical Drainage Area.

Description of Development

The proposal seeks to convert the former Cockington Primary School site into five, two-bedroom apartments, one three-bedroom apartment, one one-bedroom apartment, and four two-storey, three-bedroom dwellings.

Apartments 1-6 would be at ground and first floor level within the former main school building, and apartment 7 would be at lower ground floor level. The proposed new-build dwellings would replace the three temporary classrooms to the north of the site which are to be demolished and removed. Their current state of disrepair is due fire damage.

The proposal includes individual private amenity spaces for apartments 3 to 6, with also a communal outdoor amenity space for all residents. The proposed new-build dwellings will each have their own individual, outdoor, private amenity spaces. The proposals would alter the vehicular access from Old Mill Road and also provide a new, separate pedestrian access. 14 on-site parking spaces would be provided.

Pre-Application Enquiry

DE/2018/0074: Redevelopment of existing school building to create 7 flats, with demolition of existing temporary classrooms and construction of 4 dwellings.

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

No previous relevant planning history relating to the site.

Summary of Representations

3 letters of representation have been received.

Comments raised include:

- Affordable housing
- Traffic and access
- Trees and wildlife
- Parking arrangements
- Visual impact
- Impact on local businesses
- Impact on local area
- It provides houses

Summary of Consultation Responses

Devon County Council Archaeologist:

The proposal includes the conversion of a heritage asset that is recorded on the Devon & Torbay Historic Environment Record (HER). The building is a former school that was built in the late 19th or early 20th century.

The proposal will retain the building and many of its original architectural features. However, in some respects the character of the building will be changed. In mitigation for this I would recommend that a record be made of the historic building prior to its conversion. The applicant could deposit a digital set of current elevations and plans, together with photographs and a copy of the D&A Statement as a public record with the HER (with any personal information redacted). Alternatively, a record could be secured through a condition.

Torbay Council's Senior Tree and Landscape Officer:

*I have reviewed the above planning application and make the following comments:
Appraisal:*

Following is based on review of the following documents:

- *Tree report 05270 TCP-constraints*
- *Tree Report 05270 – Tree survey*
- *Tree Report 05270 TPP Protection Plan*
- *Arboricultural Development Assessment*

Appraisal

- *The assessment of the tree stock accurately reflects the vegetation on site.*
- *The categorisation of the trees conforms to the relevant British Standard.*
- *The off-site trees along the road are the most significant trees as are those within Sherwell Park.*
- *The Tree Protection Plan is adequate for the proposed development.*
- *No AMS has been submitted.*
- *No Landscape scheme has been submitted.*

Conclusion

- *The development proposal is sustainable from an arboricultural perspective with conditions.*

Recommendations

- *A full and detailed landscape scheme is submitted to be approved by Torbay Council prior to commencement.*
- *An arboricultural method statement (AMS) detailing tree protection, site visit frequency, inspection recording and the lifting of the hard surface within the RPA of tree T1-T4 and the introduction of a grass area within the RPA to be submitted and approved prior to commencement.*

South West Water:

No objection subject to foul and surface water being kept separate and connected to the dedicated public foul and surface water sewer networks.

Torquay Neighbourhood Forum:

No response received.

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 information to inform the applicant to ensure 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, 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 easily 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.

SBD also incorporates a bespoke element (4 or less dwellings) to assist in the crime prevention approach with regard to listed buildings and heritage status.

Secured by Design (SBD) is a police owned initiative which aims to improve the security of dwellings and their immediate surroundings in order to provide safer places to live and visit.

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

- ***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 the creation of vulnerable areas which 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*
 1. *All gates that lead to private rear gardens must match the same height (1.8m) and robust solid construction as the adjoining boundary treatment. The gates must be capable of being locked from both sides, so that rear gardens can be secure regardless of access or egress.*
- ***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

One of the most contentious issues for new development is vehicle parking but it is vital that prior to determination the proposed parking provision is considered adequate when balanced against the schedule of accommodation, to prevent potential vehicle related problems and issues, not just for the new development but for the local residential and business areas too. Parking spaces should be allocated to prevent conflict over use.

Torbay Council's Senior Environmental Health Officer:

I would confirm that I have no objection to approval subject to the inclusion of a condition requiring a demolition and construction management plan. A suitable condition may be as follows:

Construction/Demolition Management Plan:

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. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust. The plan should include, but not be limited to:

- *Procedures for maintaining good neighbour relations including complaint management.*
- *All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.*
- *Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.*
- *Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.*
- *Control measures for dust and other air-borne pollutants.*

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

Torbay Council's Highways Engineer:

Highways Technical issues are the number of proposed parking spaces are inadequate, although the site is on the cusp of a Local Centre. Also, some of the proposed parking spaces seem tight to walls and fences.

Torbay Council's Senior Strategy and Project Delivery Officer:

No response received.

Torbay Council's Waste Client Manager:

Looking at the submitted plans, I do not believe that there is adequate space for the storage of waste and recycling from the 11 properties. The designs show use of larger 1100L bins and show that provision has been made for refuse and dry recycling. However, residents would also be provided with a food waste collection and the developer would need to ensure that there is adequate space for these containers.

Torbay Council's Drainage Engineer:

Awaiting an updated response, due to additional information requested. An update will be provided to Members.

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 conversion of the former Cockington Primary School site into five two-bedroom apartments, one three-bedroom apartment, one one-bedroom apartment, and four two-storey, three-bedroom dwellings.

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.

Policy TS4 of the Torquay Neighbourhood Plan 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 further advises that development of greenfield sites can have an adverse impact through the loss of green space, so will only 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 the light of the broad aspirations of Policy H1 of the Local Plan and Policy TS4 of the Torquay Neighbourhood Plan, 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, in a sustainable location with good access to shops and other services, transport links and recreational areas, within an area currently of residential character. This context supports the principle of a residential use being acceptable.

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.

Apartments 1-6 on the ground and first floors and apartment 7 on the lower ground floor would all be accommodated within the former school building's existing envelope, with only minor alterations to its external appearance. New-build dwellings would replace the three temporary classrooms to be demolished. This demolition is welcomed and the proposed new-build, terraced dwellings will provide a positive addition to the site. The side elevations of these dwellings contain openings instead of a blank façade, which assists in providing active frontages. It is considered that the proposed development provides a suitable and well-designed scheme to redevelop a vacant brownfield site.

A planning condition is recommended to secure details of the proposed external materials. 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 street scene in accordance with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

3. Impact on Residential Amenity

Internal Living Space

Policy DE3 of the Local Plan requires that new residential units provide adequate internal floor space in order to achieve a pleasant and healthy environment. The Neighbourhood Plan is largely silent on the matter of amenity. The NPPF guides (Paragraph 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.

Policy DE3 sets out the minimum floor space standards for new dwellings and apartments. The proposed dwellings comply with the minimum floor space requirements of 93 square metres for three bedrooms which have five bed-spaces. The proposed apartments all substantially exceed the minimum floor space requirements set out in Policy DE3 of the Local Plan. Therefore, the proposed residential accommodation is considered to comply with Policy DE3 of the Local Plan.

External Amenity Space

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 3 to 6 have their own individual allocated amenity spaces that comply with the requirements of Policy THW4, however all apartments would have access to large communal outdoor amenity spaces. The proposed dwellings have their own individual amenity spaces that comply with the requirements of Policy THW4. The site also benefits from being within close proximity to Sherwell Park.

Daylight

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. Given the differences in finished floor levels, it is considered that the proposed openings between the proposed apartments and dwellings will not provide direct intervisibility between habitable rooms. 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.

To ensure the amenity of the occupiers of Unit 7 are protected, a planning condition is proposed to ensure suitable enclosures around the south-western elevation to prevent headlight intrusion and nuisance from other occupiers of the development. Also, parking space 13 indicated on the proposed layout will be allocated to Unit 7 in the interests of protecting the amenity of the occupiers of this unit.

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 alters the existing vehicular access from Old Mill Road and provides easier access to the proposed parking court. The proposal also provides a separate pedestrian access. The proposal includes 14 on-site parking spaces. It is considered that the proposed development should provide one off-street parking space per apartment and two off-street parking spaces per dwelling, totalling 15 off-street parking spaces, plus an additional parking space for visitors. The Council's Highways Engineer was consulted on the application and raises a concern with regard to the number of onsite parking space, however as the site is on the edge of the Local Centre, it is considered that the site is in a sufficiently sustainable location in close proximity to local amenities and public transportation links to mitigate the insufficient onsite parking provision.

The Council's Waste Client Manager is not satisfied with the proposed waste arrangements. The proposed bicycle storage details have not been provided in full, there is also concerns of the location of the residents bicycle storage, given it being in close proximity to the public highway and not within the natural surveillance of the entire site. Conditions are therefore recommended to secure satisfactory 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 comply with Policies TA1, TA2 and TA3 of the Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

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. Policy TE5 of the Torquay 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 (Paragraph 170).

The application is supported by a Bat and Protected Species Survey. The report states that the no field signs of use by bats was found within the School Building. However, due to the building construction type, age, complexity and inaccessible attic voids, it is considered that field signs of use by bats could be concealed and that it is likely the School Building supports roosting sites for bats. The report goes on to state that, it is considered that the Toilet Block and Theatre Building does not support a bat roost, and that the proposed works are unlikely to result in disturbance to bats or to significantly affect the distribution or abundance of local populations. The Brickwork Workshop and Classroom included ten and three lesser horseshoe bat droppings on the floor of the small storage room below a light fitting and on a desk below a ceiling beam, respectively. The location and number of droppings found is indicative of a night roost in both buildings for an individual or low numbers of lesser horseshoe bat/s. The report concludes that further survey work is required and it would define the impact of the proposed works and would confirm appropriate mitigation in relation to the proposed development. The report stated that in terms of nesting birds, No former bird nest sites were identified within or upon the School Building. However, the numerous gaps around the soffit eaves are likely to conceal bird nesting sites. Two former nesting sites for blackbird were found on light fittings within the toilet cubicles. It is likely that these bird nest sites could be re-established, or supplemented by newly established nests, within/upon the buildings during any future bird nesting seasons.

The survey states potential mitigation measures and enhancement features which are recommended as a planning condition.

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 application is supported by a tree report, a tree survey, a tree protection plan and an arboricultural assessment. The Council's Senior Tree and Landscape Officer confirms the proposal development is sustainable from an arboricultural perspective subject to conditions to secure a full and detailed landscape scheme and an arboricultural method statement.

Having considered the submitted assessments, subject to the aforementioned planning conditions, 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, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

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 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 await final comments from the Council's Drainage Engineer. An update will be provided to Members at the Meeting.

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 Act, and in particular Article 1 of the First Protocol and Article 8. 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 Act requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

S106:

Not applicable.

CIL:

The land is situated in Charging Zone 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.

HRA:

Not applicable.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme addresses the Development Plan aspiration to provide

housing producing a significantly positive impact overall and helping 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 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. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning and Transport.

Conditions

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.

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.

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 dwellinghouses 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.

Bicycle Storage

Notwithstanding the submitted bicycle storage shown on plan reference 'OMR BP XX XX DR A 025 001 P2' received 22nd November 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

Notwithstanding the submitted refuse storage shown on plan reference 'OMR BP XX XX DR A 025 001 P2' received 22nd November 2019, prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

Communal Garden

The development hereby approved shall not be occupied or brought into use until the 'communal amenity' detailed on the plan referenced "Proposed Layout" ('OMR BP XX XX DR A 025 001 P2' received 22nd November 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.

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 'OMR BP XX XX DR A 025 001 P2' received 22nd November 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.

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.

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 locality and the streetscene in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 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. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- j) Procedures for maintaining good neighbour relations including complaint management.
- k) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.

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 approved bat and breeding bird survey (plan reference '2015-12067-CLS-CLS (WML-A34-Level 2)' received 6th September 2019) hereby approved, including the outlined mitigation measures and ecological enhancements.

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

Unit 7 – Residential Environment

Notwithstanding the details on the approved plan referenced 'OMR BP XX XX DR A 025 001 P2' (received 22nd November 2019), no development shall take place until a scheme of mitigation, to protect the amenities of the future occupiers of Unit 7, 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 7's south-western elevation 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 7 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 7 – Allocated Parking Space

Prior to the first occupation of Unit 7 hereby approved, the parking space '13' on the plan referenced 'OMR BP XX XX DR A 025 001 P2' (received 22nd November 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.

Flood Risk Assessment

The wording of a suitable condition will be finalised once drainage matters have been resolved.

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)

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

Torbay Local Plan

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

TA1 – Transport and Accessibility

TA2 – Development Access
TA3 – Parking Requirements

Torquay Neighbourhood Plan

TH2 – Master Plans
TH8 – Established Architecture
TH9 – Parking Facilities
THW4 – Outside Space Provision
TS4 – Support for Brownfield and Greenfield Development