

Friday, 3 July 2020

PLANNING COMMITTEE

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

Monday, 13 July 2020

commencing at **2.00 pm**

The meeting will be held remotely via Zoom (the link to the meeting is set out below)

<https://us02web.zoom.us/j/82389293485?pwd=NjhMTHJMVzFMTUFMeTBWanJLZGJiQT09>

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Members of the Committee

Councillor Pentney (Chairman)

Councillor Brown

Councillor Dart

Councillor Dudley

Councillor Hill

Councillor Manning

Councillor Jacqueline Thomas

Councillor Barnby

Councillor Bye

A prosperous and healthy Torbay

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, Town Hall, Castle Circus, Torquay, TQ1 3DR

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. **El Patio, 11 Alta Vista Road, Paignton (P/2019/0893)**

(Pages 5 - 27)

Outline consent for the demolition of existing building and construction of 10 x residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved.

5. **Land Adjacent To Unit 36, Torbay Business Park, Woodview Road, Paignton (P/2019/1307)**

(Pages 28 - 46)

Construction of two commercial Units (reference 'F' and 'G') to provide 2044m² floor space. Unit F to be sub-divided into 5 smaller units. Unit G to be sub-divided into 3 smaller units. Buildings are surrounded by circulation space, car parking and hard standing to facilitate lorry deliveries and dispatches.

6. **Corbyn Head Hotel, Torbay Road, Torquay (P/2020/0420)**

(Pages 47 - 64)

Variation of Conditions relating to application P/2019/0699. Condition P1. Variation sought: Revisions to elevations and internal layout. Addition of one bedroom and car parking space. Reduction

of building height and reduction in north-south building length.

7. **Orchard Way, Edginswell Business Park, Torquay (P/2020/0024)** (Pages 65 - 71)
Reconfiguration of car park – retrospective
8. **Adjournment**
To consider adjourning the meeting until 5.30pm.
9. **Land North Of Totnes Road, Collaton St Mary, Paignton (P/2019/0281)** (Pages 72 - 119)
Development of up to 100 dwellings, including affordable and market housing. Associated landscaping, open space, drainage and highways infrastructure at Land North of Totnes Road together with new access onto Totnes Road.
10. **Land At Waterside Quarry, Waterside Road, Paignton (P/2019/0520)** (Pages 120 - 150)
Outline consent with all matters reserved for three dwellings
11. **Stoodley Knowle School, Ansteys Cove Road, Torquay (P/2019/1330)** (Pages 151 - 188)
Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure.
12. **Stoodley Knowle School, Ansteys Cove Road, Torquay (P/2019/1334)** (Pages 189 - 200)
Listed Building Consent for works to the listed buildings (related to P/2019/1334 - Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure).
13. **58 Southfield Avenue, Paignton (P/2019/0923)** (Pages 201 - 219)
Proposed new dwelling in curtilage of property.
14. **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.

Instructions for the press and public for joining the meeting

If you are using an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

Joining a Meeting

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. (**Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

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Speaking at a Meeting

If you are registered to speak at the meeting and when it is your turn to address the Meeting, the Chairman will invite you to speak giving the Host the instruction to unmute your microphone and switch your video on (where appropriate) therefore please pause for a couple of seconds to ensure your microphone is on.

Upon the conclusion of your speech/time limit, the Host will mute your microphone and turn off your video.

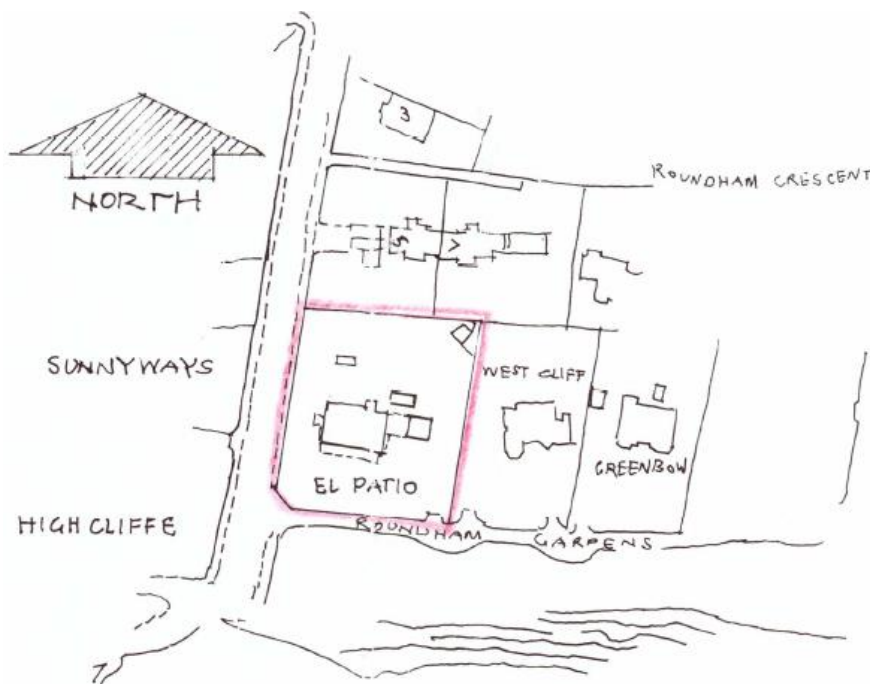
Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.
- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.



Application Site Address	El-Patio 11 Alta Vista Road Paignton TQ4 6DB
Proposal	Outline consent for the demolition of existing building and construction of 10 x residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved.
Application Number	P/2019/0893
Applicant	Mr and Mrs Roach
Agent	Mr Rodney Howes – Howes Partnership Architects
Date Application Valid	17/10/2019
Decision Due date	16/01/2020
Extension of Time Date	15/07/2020
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 responsible for Planning, Housing and Climate Emergency.
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 a large two storey, detached residential dwelling with a render and tile hung appearance with a mixture of aluminium and uPVC fenestrations. The site area is 1,910 square metres and the existing footprint of the dwelling is approximately 246 square metres excluding the outbuilding and detached garage. The site provides ample parking for the existing dwelling, the submitted information indicates nine off-street parking spaces, as well as a swimming pool to the rear of the site. The site provides pedestrian access from both Alta Vista Road and Roundham Gardens and vehicular access from Roundham Gardens. The site lies to the eastern side of Alta Vista Road and the site levels are relatively flat. The site is adjacent to Roundham and Paignton Harbour Conservation Area.

Description of Development

The proposal seeks outline consent for the demolition of the existing building and the construction of a block of flats comprising of ten residential units. This application seeks permission for access, appearance, layout and scale, with landscaping reserved.

The proposed building would have two storeys plus habitable accommodation in the roof space. The proposed flats would be situated on the ground, first and second floors of the building. The proposal includes two large communal outdoor amenity spaces. A number of flats will also benefit from their own individual private balconies/terraces. The proposed vehicular access would be altered to provide access from Alta Vista Road and offers fifteen off-street parking spaces. The proposal would retain the access from Roundham Gardens but would be used for pedestrian access.

It should be noted that the properties on Roundham Gardens tend to be two storeys in height, whilst the flatted development on the opposite side of Alta Vista Road ranges between three to four storeys in height. The architectural style of the building is traditional in its basic form, with a hipped roof with gable end features to the side elevations. The principal, south elevation is symmetrical including feature bays at either end and includes a mixture of window types, the majority of which are full height. At first floor a balcony runs across the mid-section of the building with what appears to be a contemporary glass balustrade. Pitched roof dormers are proposed in the south and north elevations.

Pre-Application Enquiry

Not applicable.

Relevant Planning Policy Context

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

plan policies and material considerations are relevant to this application:

Development Plan

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

Material Considerations

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

Relevant Planning History

P/2002/1060: Erection Of 4 Bedroom Residential Property. Refused 03/10/2002.

P/2001/1360: Redevelopment To Provide 10 Residential Apartments With Vehicular And Pedestrian Access (As Revised By Plans Received 4/2/02). Approved 11/04/2003.

P/2000/0738: Renewal Of Application Reference No.95/0859/Pa For Erection Of Garage. Approved 29/06/2000.

P/2000/0277: Redevelopment To Form 8 Self Contained Flats (In Outline). Approved 22/01/2001.

P/1990/0719: Conversion Of Previously Approved Three Bedroom Apartment Ref App. No. 89.2853 To Form 2 Two Bedroom Flats (Total 8 Units). Approved 30/05/1990.

P/1989/2853: Conversion And Extension To Form Seven Apartments With Parking. Approved 03/04/1990.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Five neighbour notification letters were sent to those neighbours which the development could directly affect. 4 letters of objection and 1 letter of support have been received.

Concerns raised in objection include:

- Overdevelopment
- Traffic and access
- Privacy/overlooking
- Trees and wildlife
- Impact on local area
- Not in keeping with local area
- Sets a precedent
- Impact on Conservation Area

Comments raised in support include:

- It provides houses
- Provides/retains jobs

Summary of Consultation Responses

Police Designing Out Crime Officer:

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

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

As such it is recommended that all external doors and 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.

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. For further information please contact me.

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 creating areas that could attract criminal activity, the antisocial to gather or for unacceptable behaviour such as dumping and dog fouling etc. to go unnoticed.
- Ownership:** Places that promote a sense of ownership, respect, territorial responsibility and community
- Physical protection:** Places that include necessary, well-designed security features as laid out in SBD Homes 2019 and ADQ

1. Tradesperson buttons (if applicable) for multi occupancy buildings are discouraged by the Police due to an increase in crime, fear of crime and antisocial behaviour as such thought should be given as to how mail will be delivered for the shared entrances. It is recommended that a SBD approved external wall mounted or free standing letter box system or a secure through the wall mail system are considered.
2. The reading of utility meters should be capable of being done remotely.
3. For shared entrances or private entrances to dwellings on a higher floor should have a visitor door entry system installed with both an audible and visual facility.
4. External open communal bicycle storage with individual stands or multiple storage racks for securing bicycles will be as close to the building as possible, but in any event within 50 metres of the primary entrance to the building and located in view of active rooms of dwellings. The store must be lit at night using vandal resistant, light fittings and energy efficient LED lights. NB Vertical cycle racks can be difficult for some sections of the community to use.

The word 'active' in this sense means rooms in building elevations from which there is direct and regular visual connection between the room and the street or parking court. Such visual connection can be expected from rooms such as kitchens and living rooms, but not from more private rooms, such as bedrooms and bathrooms.

- 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.

The proposed parking provision is noted but it is vital that this is considered to be both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and designed so it is convenient and practical to use as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere' that can introduce a source of conflict and rancour as a result of inconsiderate and/or obstructive parking.

Torbay Council's Senior Environmental Health Officer:

I would confirm that I have reviewed the application and have no objections subject to the inclusion of a condition requiring the submission of a demolition/construction management plan for the approval of the L.A. prior to the commencement of works. A suitable condition would be as follows:

Demolition/Construction Management Plan:

No development shall take place until a site specific Demolition/Construction 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

Paignton Neighbourhood Forum:

No response received.

Torbay Council's Senior Tree and Landscape Officer:

No requirement for further arboricultural input however we will require a robust landscaping scheme.

South West Water:

South West Water has no objection subject to surface water being managed by means of soakaways as proposed. For information a large diameter public sewer (1675mm) lies within the site as shown in red on the attached plan and no building will be permitted within 5m of it.

Torbay Council's Highways Engineer:

One car parking space per apartment would be required as well as the provision of secure and covered cycle storage of at least one cycle per flat. The minimum single garage internal dimensions are 6m x 3.3m. The required visibility is 43m, the drawing shows visibility arms of 45m.

As the access serves more than one unit, adequate width to pass two vehicles should be served. A minimum width of 5m is recommended.

Torbay Council's Senior Strategy and Project Delivery Officer:

No response received.

Torbay Council's Drainage Engineer:

Providing the surface water drainage is constructed in accordance with the hydraulic design and drawings supplied, I have no objections on drainage grounds to planning permission being granted for this development.

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 demolition of the existing building and the construction of 10 residential flats.

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. At present the Council cannot demonstrate a 5 year housing land supply and therefore the tilted balance in favour of sustainable development is applicable as set out in the National Planning Policy Framework:

Paragraph 11 of the NPPF states:

Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

The impact of paragraph 11 of the NPPF in the assessment of this application is that development plan policies that are most important for determining this application are out of date and that planning permission should be granted unless any adverse impacts of do so would significantly and demonstrably outweigh the benefits.

The site is located within an established residential area. The principle of residential development on the site would be consistent with Policy H1 of the Local Plan. Those in support of the proposal have stated that the development would provide jobs and housing. There are no Development Plan policies indicating that the proposal is not acceptable in principle.

2. Impact on the Character of the Area

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

The proposal is to demolish the existing two storey detached residential dwelling and erect a block of ten residential flats. Objectors have raised concerns that the proposed development would not be in keeping with the local area; it would be an overdevelopment of the site; it would set a precedent; and it would have a negative impact on the local area and the Conservation Area. The site is in a visually prominent, highly elevated location, a corner plot where Alta Vista Road meets Roundham Gardens, evident from a large expanse of public vantage points. Roundham Gardens is characterised by large, detached, two storey dwellings, whilst on the opposing (western) side of Alta Vista Road in the Roundham and Paignton Harbour Conservation Area is a three to four storey apartment block.

As the submitted plans do not include materials, a planning condition is recommended to secure such details. This application reserves landscaping, therefore a planning condition to secure such details at reserved matters of hard and soft landscaping, as well as means of enclosure is recommended. The Council's Senior Tree and Landscape Officer has been consulted on this application and has stated that no requirement for further arboricultural input is required, however a robust landscaping scheme at the reserved matters stage is necessary. It should be noted that the properties on Roundham Gardens tend to be two storeys in height and sit within large spacious plots, whilst the flatted development on the opposite side of Alta Vista Road ranges between three to four storeys in height. The locality has a mixture of large houses and flatted development. The basic architectural style of the building is traditional which displays a hipped roof with gable end features to the side elevations, with the fenestrations offering a symmetrical stance. The use of full height windows and a balcony with glass balustrade introduce more contemporary features. The design is 'safe' and non-challenging which will sit quietly in its setting. The existing building has a gable roof with limited architectural features. It is considered that the proposed design will offer a marginally positive contribution in terms of design and impact on the character of the area.

The site is adjacent to Roundham and Paignton Harbour Conservation Area. Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas.

It is considered that the setting and character of the Roundham and Paignton Harbour Conservation Area will be preserved, and the proposal would not result in harm to this heritage asset. Subject to the aforementioned planning conditions, given the proposal's siting, scale, and design, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or streetscene in accordance with Policies DE1 and SS10 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan, and the guidance contained in the NPPF.

3. Impact on Residential Amenity

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

The proposal is for the demolition of the existing building and the construction of 10 x residential flats. Table 23 of the Torbay Local Plan 2012-2030 sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standards. The following floorspace is provided for each residential unit:

Unit 1 = 93 square metres (2 bedroom, 4 bed-spaces).
Unit 2 = 105 square metres (2 bedroom, 4 bed-spaces).
Unit 3 = 93 square metres (2 bedroom, 4 bed-spaces).
Unit 4 = 90 square metres (2 bedroom, 3 bed-spaces).
Unit 5 = 100 square metres (2 bedroom, 4 bed-spaces).
Unit 6 = 104 square metres (2 bedroom, 4 bed-spaces).
Unit 7 = 96 square metres (2 bedroom, 4 bed-spaces).
Unit 8 = 90 square metres (2 bedroom, 3 bed-spaces).
Unit 9 = 86 square metres (3 bedroom, 5 bed-spaces).
Unit 10 = 92 square metres (3 bedroom, 6 bed-spaces).

The proposed flats comply with the minimum standards given in Policy DE3 of the Local Plan, except for Unit 10 that is 3 square metres under the minimum standards. However, this deficit is considered to be minimal. Policy DE3 of the Local Plan also states that new flats should provide 10 square metres of outdoor amenity space, of which it can be communally sought, therefore given the ten proposed flats, the site should provide 100 square metres of outdoor amenity space. Given the submitted information, the proposed site layout indicates two areas of outdoor amenity space, which measures in excess of 600 square metres. It should also be noted that the site is within very close proximity to Roundham Gardens, Youngs Park and Goodrington Sands, which offer large expanses of public outdoor space.

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. The proposed site layout indicates that Unit 5 would have an element of landscaped screening to prevent the amenity of the future occupiers from potential headlight intrusion into the habitable room windows.

Objectors have raised concerns regarding the impact the proposal would have on the privacy of adjacent neighbours. The rear (northern) elevation is some 20 metres from the boundary between the site and Nos.5, 5A, 7 and 7A Alta Vista Road, to which their distance to the boundary is between approximately 10-12 metres. Therefore, the overall separation distance is in excess of 30 metres, it should be noted that given the topography of the area that the site is on higher ground than the aforementioned adjacent neighbours, however the separation distance is considered acceptable and therefore the proposal is not considered to cause detrimental harm in terms of privacy on such neighbours. The side (eastern) elevation that faces the side elevation of 'West Cliff' has a separation distance of approximately 10 metres. There are few openings on the eastern elevation of the proposal, 'West Cliff' has no existing openings on this elevation, therefore it is considered that the proposal would not infringe upon the privacy of the occupiers of 'West Cliff', regardless it is considered that suitable boundary treatments would mitigate any potential overlooking from the ground floor openings.

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

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 comply with Policy DE3 of the Local Plan.

4. Impact on Highway Safety

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy PNP1(d) of the Paignton Neighbourhood Plan states that new residential development should aim to achieve where appropriate and subject to viability space for solid waste storage within the curtilage and purpose designed cycle parking space that is covered, safe and convenient.

The proposal alters the vehicular access from Roundham Gardens to Alta Vista Road, as well as providing fifteen off-street parking spaces. Objectors have raised concerns regarding traffic and access. The Local Plan states that 1 off-street parking space should be provided per flat, as well as accommodating for visitors (at least 1 off-street parking space for the proposed development). Appendix F states that parking spaces should be 4.8 metres by 2.4 metres except for when they abut the public footpath and/or public highway and then the spaces should be 5.5 metres by 3.2 metres to prevent vehicles from overhanging and causing an obstruction to the public footway and potentially the public highway. Appendix F of the Local Plan also states that the internal dimensions of a garage should be 6 metres length by 3.3 metres width, the proposed garages comply with this standard. Appendix F of the Local Plan also states that where parking courts are proposed there should be at least 6 metres of manoeuvring space to enter and exit the parking spaces, this is also achieved within the parking court onsite.

The Council's Highways Engineer has been consulted on the application and has stated that one car parking space per apartment would be required as well as the provision of secure and covered cycle storage of at least one cycle per flat. The proposed site layout indicates an area of bicycle storage to the rear of the site,

however it is considered that the proposed storage is an insufficient size to accommodate ten bicycles, therefore further details of covered and secured bicycle storage is recommended as a planning condition.

The Engineer has also stated that the required visibility for the proposed access from Alta Vista Road is 43 metres, the submitted plans demonstrate that visibility arms of 45 metres are achievable. The Engineer requested that as the access serves more than one unit, adequate width to pass two vehicles should be served, which would require a minimum width of 5 metres. The proposed site layout has been amended to reflect such request. The proposed development is considered to comply with Policies TA1, TA2 and TA3 of the Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

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

The proposed refuse and recycling storage area is considered adequate given the requirement of 1 x bulk 1100 litre refuse bin per six flats and 1 x bulk 1100 litre recycling bin per six flats. The proposed store could easily accommodate 4 x 1100 litre bins. Conditions are recommended to secure appropriate bicycle storage, refuse storage and the implementation of the proposed parking and manoeuvring provision. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway. Subject to the aforementioned planning conditions, it is considered that the proposal would have an acceptable impacts in terms of highway safety, and would provide sufficient parking spaces.

5. Ecology and Biodiversity

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

Objectors have raised concerns regarding trees and wildlife. The application is supported by an Ecological Impact Assessment. The report states that the proposed demolition will not affect the conservation status of any local bat population. No signs of bats were associated with any element of the structures to be affected and no bats were recorded leaving the building during the dusk emergence survey. The report states that the hedges and mature garden shrubs provided suitable breeding bird habitat, any necessary vegetation clearance would best be undertaken outside the bird breeding season and if this is not possible then works should be preceded by a breeding bird survey.

It should be noted that the site falls outside of the Roundham and Paignton Harbour Conservation Area and there are no protected trees onsite. The Council's Senior Tree and Landscape Officer has been consulted on the application and has stated that there is no requirement for further arboricultural input, however a planning condition should be recommended to secure a robust landscaping scheme. A small palm tree will be lost from the proposed development, due to its size it would not be visible from public vantage points and therefore it is considered to have limited impact on the amenity of the area. The proposed site layout indicates retention of the existing hedgerow and cherry trees to the north of the site, the retention of existing hedges to the east, south and west of the site.

Subject to the aforementioned planning condition, the proposed development 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) 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. 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 drainage. Subject to the hydraulic design and drawings provided, the Council's Drainage Engineer raises no objections.

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

7. Affordable Housing Contributions

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

8. Designing Out Crime

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

The Police Designing-Out Crime Officer was consulted on the application and has made recommendations intended to ensure that the proposal would be adequately designed to prevent opportunities for crime and anti-social behaviour. Officers recommend the use of a planning condition to secure a scheme of crime prevention measures. Subject to the use of this planning condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and PNP1(g) of the Paignton Neighbourhood Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental, each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on ecology and biodiversity and surface and foul water drainage. These matters are considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development.

The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would make use of a brownfield site within the existing urban area.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent sustainable development.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

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 in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

Conclusions and Reasons for Decision

In the absence of a 5 year housing land supply applications for sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal on balance is considered acceptable in principle; would not result in unacceptable harm to the character of the area, heritage assets, or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, ecology and flood risk. The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, 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, Housing and Climate Change.

Conditions

Reserved Matters

Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

(i) landscaping (to include hard and soft landscaping, and means of enclosure)

The reserved matters shall be carried out as approved. Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

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

Time To Commence

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

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

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

Materials

Prior to their installation, samples of all the materials to be used in the construction of the external surfaces shall have been 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. Details shall include facing materials, roofing materials, windows, doors, fascias, eaves, rainwater goods and details of any under-build.

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

Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by,

the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

Reason: This information is required prior to commencement to safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030. These details are required prior to commencement of development to secure suitable parameters for the construction phase.

Bats and Breeding Birds

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

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

Designing Out Crime

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

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(g) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Biodiversity Enhancement

The reserved matters shall include details of measures to enhance biodiversity. The approved biodiversity enhancement measures shall be implemented in full prior to the first use of the development and shall be retained as such at all times thereafter.

Reason: To secure suitable biodiversity enhancement measures in accordance with Policy NC1 of the Torbay Local Plan and the NPPF.

Bicycle Storage

Notwithstanding the submitted bicycle storage shown on plan reference '1927-15 C (Garage, FF & External' received 17th March 2020, the reserved matters shall include detailed provision for the following:

(i) the storage of bicycles.

The agreed facilities for each flat shall be completed and made available for their respective uses prior to the first occupation of the development. Once provided, the facilities shall be retained for the life of the development for such purposes.

Reason: To ensure adequate accompanying facilities are provided to secure a satisfactory form of development, in accordance with Policies TA3 and DE3 of the Adopted Torbay Local Plan 2012-2030 and PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Refuse Storage

Prior to the first occupation of the development hereby permitted, the approved refuse storage on plan reference '1927-15 C (Garage, FF & External' received 17th March 2020, 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 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 Various" (plan reference '1927-15 C (Garage, FF & External' received 17th March

2020) have been provided. These elements shall thereafter be retained for the use and 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 and Policy PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Communal Garden

The development hereby approved shall not be occupied or brought into use until the communal outdoor amenity spaces detailed on the plan referenced reference "Proposed Various" (plan reference '1927-15 C (Garage, FF & External' received 17th March 2020) have 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.

Flood Risk Assessment

The development shall be undertaken in strict accordance with the approved drainage details, unless alternative drainage details are submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be retained and maintained as such for the lifetime of the development. The development shall not be occupied until the approved drainage scheme has been fully implemented.

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 Adopted Torbay Local Plan 2012-2030, Policy PNP1(i) of the Adopted Paignton Neighbourhood Plan, the guidance contained in the NPPF, and the requirements of the designation of the Critical Drainage Area by the Environment Agency.

Electric Charging Point

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

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

Boundary Treatment

Prior to the first occupation of the development hereby permitted, the scheme of boundary treatment shall be fully installed in accordance with the details as identified on the approved plans, unless otherwise agreed in writing by the Local Planning Authority. Once installed, the boundary treatment shall be maintained and retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

Timescale For Implementation Of Landscaping Scheme

All planting, seeding or turfing comprised in the approved landscaping details, to be submitted at the Reserved Matters stage, shall be carried out in the first available planting and seeding season following the first occupation of the buildings. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a suitable landscaping scheme is formed and maintained in the interests of visual amenity and in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

Informative(s)

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

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are

protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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

04. Community Infrastructure Levy (CIL)

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

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

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

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

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

The Council will then issue a demand notice to the landowner, or whoever has

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

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

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

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

H2 – Affordable Housing

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

SS10 – Conservation and the Historic Environment

SS11 – Sustainable Communities

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

W1 – Waste Hierarchy

PNP1(c) – Design Principles

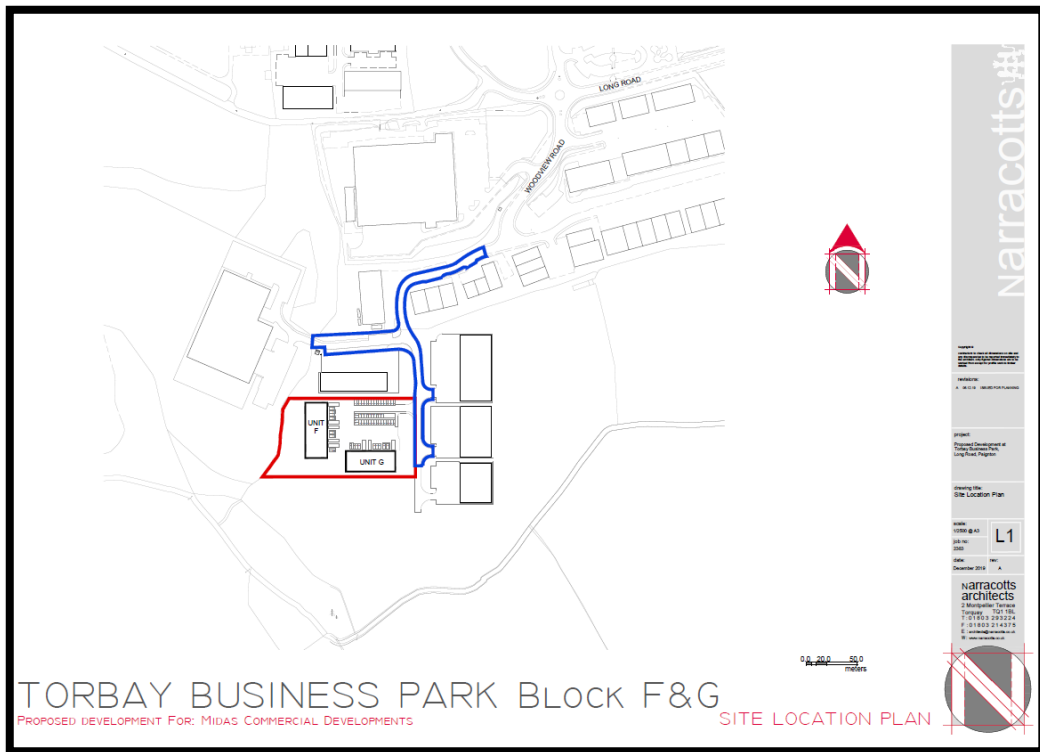
PNP1(d) – Residential Development

PNP1(g) – Designing Out Crime

PNP1(i) – Surface Water



Application Site Address	Land Adjacent To Unit 36, Torbay Business Park, Woodview Road, Paignton
Proposal	Construction of two commercial Units (reference 'F' and 'G') to provide 2044m ² floor space. Unit F to be sub-divided into 5 smaller units. Unit G to be sub-divided into 3 smaller units. Buildings are surrounded by circulation space, car parking and hard standing to facilitate lorry deliveries and dispatches.
Application Number	P/2019/1307
Applicant	
Agent	Narracotts
Date Application Valid	11.12.2019
Decision Due date	11.03.2020
Extension of Time Date	
Recommendation	Conditional approval
Reason for Referral to Planning Committee	Major Planning Application
Planning Case Officer	Mr. Alexis Moran



Site Details

The application site is to the south west and west of the existing industrial units on Woodview Road. The site is separated from proposed residential units associated with application references P/2011/0197 and P/2013/1229 by the proposed ridge top park as part of the wider plans for the Whiterock site.

To the south and west of the site is open countryside and the South Devon AONB. To the north and south west of the site are areas of woodland associated with Shopdown Copse and St Peters Copse (identified as Other Sites of Wildlife Interest and an Unconfirmed Wildlife Site within the Torbay Local Plan 2012-2030).

The application site falls within a greater horseshoe bat sustenance zone associated with the Special Area of Conservation (SAC) roost at Berry Head. The site is also situated within a Mineral Safeguarding Area and Flood Zone 1, Critical Drainage Area.

Two industrial buildings associated with the original outline consent have been constructed under approved reserved matters application P/2013/1009 and two have been constructed under application P/2017/1042 which are to the north and to the east.

Access to the site is from the newly constructed access road from Wood View Road, as approved as part of the outline permission and the permission for Units A and B (P/2013/1009/RM), later extended as part of the permission for Unit C (P/2017/1042).

Description of Development

This planning application seeks permission for the construction of two Employment buildings (B2 general industrial & B8 Storage and Distribution), which will provide a total of 2043.87 sq. m (GIA) of floor space within 2 separate buildings (Units F & G).

Unit F is to be 8.1m in height by 21.5m wide and 54.2m long, Unit G is to be 8.1m in height by 20m wide and 48.5m long. The proposed building would be finished in blue, white silver and grey galvanised steel and smooth composite cladding with blue engineering brickwork plinths. The proposed ridge heights accord with the previously approved outline application (P/2011/0197).

The proposed provides 62 parking spaces for Units F and G (including of 8 disabled spaces), as well as 8 lorry bays. The level of parking complies with Torbay Local Plan requirement for B2 use. Cycle storage for a total of 16 bikes within a central covered and lockable store is to be provided. External storage areas have been indicated in areas where they are set at low level and not prominent from public viewpoints.

Access to the site is from the newly constructed access road from Wood View Road, as approved as part of the outline permission and the permission for Units A and B (P/2013/1009/RM), later extended as part of the permission for Unit C (P/2017/1042).

The applicant has advised that the proposal is likely to provide 55 new jobs.

It is proposed to retain existing hedges on the site and to provide new tree planting.

Relevant Planning Policy Context

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

Development Plan

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

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/2017/1042 Construction of two Use Class B2 industrial manufacturing units, to provide 2255.9m² (GIA) of floor space, external lighting, circulation space, car parking and hard standing. APPROVED 16.11.2018

P/2017/0848 Variation of condition on application P/2016/0880: Erection of Class B2 industrial building of 6,000 sqm floor space to include parking, external lighting, hardstanding and circulation space. Condition 13: Surface water drainage (revised drawings submitted). APPROVED 13.09.2017

P/2016/0880 Erection of Class B2 industrial building of 6,000 sqm floor space to include parking, external lighting, hardstanding and circulation space (proposal / description amended 8 September 2016) APPROVED 03.03.2017

P/2016/0842 EIA Screening in relation to one industrial unit of 6,000 sqm floorspace
- EIA NOT REQUIRED

P/2016/411 Reserved matters for a food retail store including parking and other associated works (relates to P/2011/0197) PENDING CONSIDERATION

P/2016/0188 Approval of appearance, landscaping, layout and scale in relation to a sports pavilion and associated development including a sports playing pitch, multi-use games area and car park PENDING CONSIDERATION

P/2016/0094 Erection of 42 dwellings and associated infrastructure REFUSED
24.08.2016

P/2015/1126 Approval of appearance, landscaping, layout and scale in relation to 216 dwellings and associated development REFUSED 13.04.2016

P/2015/1229 Approval of appearance, landscaping, layout and scale in relation to 217 dwellings and associated development - EIA NOT REQUIRED

P/2015/0918 Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development (Variation of condition P1 of P/2013/1229 - MMA to units 37, 94 and 237 to allow wheelchair access) APPROVED

P/2014/0071 Approval of appearance, landscaping, layout and scale in relation to 38 dwellings and associated development. Reserved Matters for P/2011/0197 APPROVED

P/2013/1229 Approval of reserved matters to P/2011/0197. Appearance, landscaping, layout and scale in relation to 310 dwellings and associated development APPROVED

P/2013/1009 Reserved matters application for P/2011/0197 including appearance, landscaping, layout and scale of 2 industrial units, enabling work for new road, demolition of unit 31, relocation of 10 parking spaces for unit 33-34 APPROVED 16.10.2013

P/2011/0197 Mixed Use Development of 39 Hectares of land at White Rock, Paignton to construct up to 350 dwellings, approximately 36,800m² gross employment floorspace, a local centre including food retail (up to 1652m² gross) with additional 392m²A1/A3 use and student accommodation, approximately 15 hectares of open space, sports pavilion and associated infrastructure and engineering works to provide access, drainage and landscaping (Outline Application) APPROVED 29.04.2013

Summary of Representations

None received

Summary of Consultation Responses

Community Safety – no objection

AONB Officer – no comment

Natural England – no objection

Torbay Development Agency - *We fully support this much needed next phase of development of Phase 6, Torbay Business Park, Woodview Road, Paignton.*

We currently have over 500,000 sq ft of demand for employment space. To meet the needs of our local growing businesses and the needs of continued inward investor enquiries, we need these sites to come forward quickly so we can support the

Council's growth aims as set out in their economic strategy 2017-2022. As an area with the lowest level of GVA (Gross Value Added) per employee in England, bringing forward such employment sites is essential if we are to unlock and realise Torbay's growth potential, providing much needed employment for local residents.

Strategic Transport – no objection, subject to the footpaths connecting up.

Wales & West Utilities – no development should be built over plant or enclose apparatus owned by WWU.

Torbay Council's Drainage Engineer - *providing the surface water drainage is constructed in accordance with the submitted hydraulic design I have no objections on drainage grounds to planning permission being granted.*

Torbay Heritage advice - *It appears that whilst there are heritage assets (including a Scheduled Ancient Monument and Listed Buildings) in the wider area, the distances, gradients and vegetation between these and the application site should result in no adverse impact upon the setting of identified heritage assets.*

South West Water – No objection

RSPB – No comment

Torbay Council Senior Tree and Landscape Officer - *The AMS and TPP are agreeable with all recommendations within the documents to be adhered to throughout the development.*

The soft landscaping is a reflection of the existing landscaping in the neighbouring areas in terms of quantity and is adequate for the site and context.

Torbay Council Ecology Consultant:

Overall impact assessment

Subject to compliance with the proposed mitigation and monitoring measures it is considered there would be no significant long-term negative effects on biodiversity receptors and the development would be compliant with relevant biodiversity legislation and policy.

Conclusion : *No Biodiversity Objection: subject to the findings and recommendations of the submitted assessment documents and recommended conditions.*

Recommendation:

1. *Works to proceed in strict accordance with the following submitted documents:*

- *Ecological Assessment, Units F & G Torbay Business Park [Tyler Grange, dated November 2019];*
- *Arboricultural Method Statement and Tree Protection Plan [Evolve Tree Consultancy dated November 2019];*
- *Landscape Proposals Dwg no. 12277/P01 [Tyler Grange, dated October 2019];*

- *Ecological Constraints and Opportunities Plan Dwg 12277/P06 [Tyler Grange, dated October 2019];*
 - *External Lighting for Planning Torbay Business Park Units F& G [Hoare Lead, dated 26 November 2019].*
2. *A pre-commencement condition to be attached requiring the submission and approval of a Construction Environmental Management Plan (CEMP) – Biodiversity as a condition of planning approval.*
 3. *A condition to be attached requiring the submission and approval of a Landscape and Ecological Management Plan (LEMP) prior to occupation.*
 4. *A condition to be attached requiring the submission of a mitigation compliance report prior to occupation.*
 5. *A standard condition that light spill shall not exceed 0.5 lux within 10 m of the existing western boundary hedge or adjacent woodland.*
 6. *A standard condition that no additional external lighting shall be installed without prior written approval of the location planning authority.*

Reason: *To ensure no harm to protected sites, habitats and species in accordance with the Conservation of Habitats and Species Regulations 2017, NPPF and Policies SS8, SS9, C4 NC1, SS2 of the Torbay Local Plan.*

Key Issues/Material Considerations

Planning Officer Assessment

Principle of development

The matters for consideration are:

1. Principle of Development
2. Economic Benefits
3. Design and Visual Impact
4. Impact on Amenity
5. Trees and Ecology
6. Flooding and Drainage
7. Highways Impact
8. Other Considerations

1. Principle of Development

The application is for full planning permission for the erection of two industrial buildings, on land that was included in the outline consent for development at White Rock under P/2011/0197. This outline permission has now expired. The application site relates to two separate buildings units F and G and relates to the western bowl of the wider White Rock site.

Policy SS5 of the Torbay Local Plan 2012-2030 supports the provision of new employment space and the improvement of existing employment space in West Paignton. Similarly policies SS2 and SDP3.5 support the creation of a range of employment opportunities in this area. The Torbay Development Agency supports the provision of this employment use. Additionally, Policy PNP21 of the Paignton Neighbourhood Plan aims to secure the provision of new employment opportunities.

The site is identified within the Torbay Local Plan as Countryside Zone and shown as a potential development site for consideration in the Neighbourhood Development Plan, primarily for employment investment (site CDSP18). The Paignton

Neighbourhood Plan Policy PNP21 seeks secure jobs growth in White Rock and the surrounding areas, and refers to planning applications having secured 36,800 sq m of employment floorspace at White Rock. As the site is not allocated for employment development the application it could be considered a departure from the Torbay Local Plan 2012-30.

However, other material considerations are relevant. Whilst the previous permission does not bind the Authority, it was made under a similar policy framework and there is a need to ensure consistency in decision making. The site has been partly built out, and is within the SDP3.5 Strategic Delivery Area. The NPPF and Torbay Economic Strategy place weight on securing employment development, and Torbay has a pressing need to improve the jobs market, which has been identified as a serious problem for adult social mobility in the Bay.

The provision of employment uses within the site has been established by the earlier outline application (P/2011/0197) for the wider Whiterock site. Whilst this application has now expired, it remains a material consideration which, as there have been no significant changes in circumstances (i.e. the allocation of the land still remains as countryside zone), may be afforded significant weight.

Additionally, the continued provision of employment uses in this location continues to be supported by current Local Plan policies (notably SPD3.5) and is important for economic recovery and growth in Torbay. Although the proposed development is contrary to the Torbay Local Plan 2012-30 by reason of being located within the allocated 'Countryside Zone', on balance the principle of industrial uses on this site remains acceptable and should be supported.

Consequently, the principle of the proposed development is acceptable.

2. Economic benefits

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort. Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the Bay.

Policy SS11 (Sustainable communities) explains that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

The applicant advises that the development would create 55 new full time jobs and the Torbay Development Agency (TDA) supports the application, noting that they *“fully support this much needed next phase of development of Phase 6, Torbay Business Park, Woodview Road, Paignton.”*

The TDA have advised that there is demand for over 500,000 sq ft of employment space in Torbay and that sites such as the one proposed are required to support the Council's growth aims as set out in their economic strategy 2017-2022.

The TDA's consultation comments conclude that as an area with the lowest level of GVA (Gross Value Added) per employee in England, bringing forward such employment sites is essential to unlock and realise Torbay's growth potential, providing much needed employment for local residents.

Bearing this in mind it is considered that proposed commercial units would correspond with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan and Policy PNP21 of the Paignton Neighbourhood Plan.

3. Design and Visual Impact

The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it 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'. New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.

Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criterion 3 refers to development that helps to develop a sense of place and local identity and criterion 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

The proposed buildings are considered to be of an appropriate scale and are consistent with other employment buildings within the business park. The proposed building would be finished in blue, white silver and grey galvanised steel and smooth composite cladding with blue engineering brickwork plinths. The appearance of the units in terms of elevations, materials and colour are in keeping with similar developments within this location. The ridge heights are consistent with the ridge heights of the outline approval.

The buildings are surrounded by circulation space for future maintenance, car parking and hardstanding to facilitate lorry deliveries and dispatches.

The proposed landscaping for the site is appropriate to the site's context and limited visibility within the wider local landscape. It provides for retention of the existing

hedge to the west and new tree planting to ensure that the visual impact of the proposal is negligible. The soft landscaping is a reflection of the existing landscaping in the neighbouring areas in terms of quantity and is considered to be adequate for the site and context.

Given the proposal's siting, layout, scale, and overall design, it is considered that they would not result in any unacceptable harm to the character of the area and it is considered that the proposal is in accordance with Policies DE1 and SS11 of the Local Plan and the guidance contained in the NPPF

4. Impact on Amenity

The proposals are to be sited to the west of the approved residential development (P/2011/0197 and P/2013/1229). The position of the proposals in relation to the residential development reflects that shown within the indicative layout shown at outline stage. Paragraph 17 of the National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.

Policy DE3 of the Torbay Local Plan 2012-2030 states that developments should be designed to not unduly impact upon the amenity of neighbouring and surrounding uses, with one of the criteria for assessment being the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

The proposed building is positioned some distance from proposed residential dwellings and is separated by a proposed ridge-top park and is not considered to result in any serious detriment to residential amenity by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing.

Due to the distance (some 410 metres) separating the proposal from neighbouring dwellings, the lighting proposed and any noise as a result of the operation of the building is not considered to result in a nuisance to current or future residential occupiers of Whiterock.

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

5. Trees and Ecology

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features. The site is currently very limited in terms of its landscape features.

It provides for retention of the existing hedge to the west and new tree planting to ensure that the visual impact of the proposal is negligible.

As previously noted the proposal retains the existing hedge to the west and the landscaping for the site is appropriate to the site's context and is a reflection of the existing landscaping in the neighbouring areas.

The Council's Senior Tree and Landscape Officer has confirmed that the submitted Arboricultural Method Statement and Tree Protection Plan are acceptable and a condition will be added to ensure the documents are adhered to at all times throughout the development.

The proposed development will have minimal impact on the green infrastructure that surrounds it and the Council's arboricultural officer has confirmed that it complies with Policy C4 of the Local Plan.

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments, and fauna and flora, commensurate to their importance.

The application lies within 6.2 km of South Hams SAC and is within the Berry Head SAC Sustenance Zone. No non-statutory designated sites lie within the application boundary. White Rock County Wildlife Site (CWS) lies 40m to the north designated for its broadleaved woodland and old neglected orchard. Waddeton Woods CWS which includes Shopdown Copse is located 96 m to the south west.

The site is dominated by species-poor semi-improved grassland with tall ruderal vegetation. A small section of species-rich hedgerow is located to the west of the site.

The site has potential to support species of bats, breeding birds, badger and common reptiles and surveys have been completed following standard guidelines.

Bat activity surveys identified no roosts within the application site and bat activity across the site has been found to be low with common pipistrelle most frequently recorded, with occasional *Myotis* species and low numbers/individual rare bat species including greater horseshoe bat.

Suitable bird breeding habitat is present and a range of mainly common species have been recorded within the site. Low numbers of curlew were recorded within the area, including the application site within habitat that will remain unaffected by the proposed development. Extensive breeding bird habitat is available locally and the site is not considered to be of ornithological interest.

No evidence of badger or badger setts was recorded within the site during any surveys completed during 2017 and 2019. Reptile surveys in 2017 recorded a small population of slow-worm on the site and in connected habitat. The majority of potential reptile habitat is off-site and will remain unaffected by the proposals. Appropriate mitigation will be undertaken to ensure no adverse impacts occur to any reptiles that could be present within the site.

Mitigation and enhancement measures are included in Section 4 of the submitted Ecological Assessment, External Lighting Plan, Soft Landscaping Proposals and the Arboricultural Method Statement and Tree Protection Plan and include:

- New native meadow grassland (0.24 ha)
- New amenity grassland (0.07 ha)
- New ornamental planting (50 sq m)
- Retention, protection, enhancement and management of existing hedgerow
- Tree protection during construction in accordance with BS 5837:2012
- A lighting scheme to ensure no light spill greater than 0.5 lux within 10 meters of the boundary hedgerow and adjacent woodland habitat
- A variety of bat boxes on trees in the wider area
- Timing of works outside of the bird breeding season or under ecological watching brief
- Phased habitat clearance under ecological supervision to protect reptiles

The developer has also entered into a Section 106 agreement with Torbay Council in relation to the planning consent for Units C & E to provide payment that will compensate for impacts to curlew buntings including those from Units F and G and will be used to enhance habitat for this species in the local area. The retained hedgerow is to be enhanced comprising a meadow grassland buffer offering foraging opportunities for curlew buntings and bats post development.

Subject to compliance with the proposed mitigation and monitoring measures it is considered there would be no significant long-term negative effects on biodiversity receptors and the development would be compliant with relevant biodiversity legislation and policy.

HRA/AA

A Habitats Regulations Assessment has been carried out on behalf of Torbay Council in relation to effects of the proposals alone or in-combination with other plans or projects on European sites. Subject to implementation of mitigation measures to retain and protect greater horseshoe bat commuting habitat and adjacent mitigation areas, the Council concludes the proposals will not adversely affect the integrity of South Hams SAC alone or in-combination with other plans or projects.

E IA

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.

6. Flooding and Drainage

Policy ER1 (Flood risk) states that development must be safe for its lifetime, taking account of its future use, function and government projections of how the risk of flooding may change in response to climate change. Development proposals will be expected to 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 in flood zone 1, the Council's drainage engineer has confirmed that the submitted surface water drainage design has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or

land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. The proposal is therefore deemed to comply with Policies ER1 and ER2 of the Local Plan.

7. Highways Impact

Consultation comments from Strategic Transport state that they have no objection to the proposal and the submitted Transport Statement states that the trip generation of the proposed schemes both individually and combined is small and will have a negligible impact upon the operation of the highway network. It goes on to say that this is particularly relevant given the scale of highway mitigation introduced on Brixham Road to accommodate extension to Torbay Business Park.

In terms of car parking, the proposal includes 62 car parking spaces for the two units. Policy TA3 and associated appendix F of the Torbay Local Plan sets a parking standard of 1 space per 35 sqm, which would require 58 car parking spaces overall. Therefore the level of parking proposed accords with Policy TA3 of the Local Plan.

In terms of cycle provision, the proposed plans indicate 16 cycle parking spaces are proposed which, in line with Appendix F of the Local Plan, are secured and covered.

8. Other Considerations

S106

The developer has entered into a Section 106 agreement with Torbay Council in relation to the planning consent for Units C & E (P/2017/1042) to provide payment that will compensate for impacts to curlew buntings including those from Units F and G and will be used to enhance habitat for this species in the local area. No further contributions are required.

Mineral Safeguarding Area

The site is within the Mineral Safeguarding Area. This issue was assessed in detail at the outline application stage and the previous permissions are material considerations. The Local Plan continues to support the provision of employment uses in this location. Policy M3 of the Torbay Local Plan states that the Council will seek to safeguard important mineral resources and sites. Information submitted at outline stage which established the development of the site within the Mineral Safeguarding Area concluded that the development of this site would have a minor negative impact upon the opportunity to deliver open limestone extraction within the immediate vicinity of the site. On balance and having considered the environmental impacts of extraction in this location together with previous permissions on this site, the development of this site is not considered to result in a significantly detrimental impact upon mineral extraction in this location.

Sustainability

The technical design of the buildings will seek to achieve best practice in terms of U-value characteristics of the key heat-loss routes, namely windows, doors, walls, floors and roof. In addition best practice in construction will seek to address issues such as cold bridging and air tightness.

The proposal includes energy efficient lighting and external storage to encourage recycling. It also has access to nearby public access.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide additional employment facilities while maintain the landscape and rural character of the area. The proposal would have an acceptable impact on the ecology of the area.

Community Infrastructure Levy

The proposal is for B1 employment use, Torbay Council collect CIL payments for new dwellings and for larger out-of-town/district centre retail and food and drink developments. Therefore the industrial units' proposal would not be liable for a CIL payment.

Statement on Human Rights and Equalities Issues

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

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

Conclusions and Reasons for Decision

The proposal would provide additional jobs with minimal harm to the character of the area.

The proposal is considered to be acceptable, having regard to the Local Plan, Torquay Neighbourhood Plan, and all other material considerations, subject to the use of planning conditions.

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, Housing and Climate Change.

Conditions

1. The development shall be undertaken in accordance with the Ecological Assessment (reference 12277_R02a_AH_HM, received 10.12.2019) which includes the *Ecological Constraints and Opportunities Plan* (Drawing ref: 12277/P06).

Reason: To secure a satisfactory form of development in accordance with PolicyNC1 of the Torbay Local Plan 2012-2030.

2. External lighting equipment will be installed and maintained in full accordance with the proposals and specifications set out in the External Lighting Report (ref: 0308135-08-AFB revision P4 received 10.12.2019) for the operational life of the developments.

External light spill from the development during its operational life shall not exceed above 0.5 lux within 10 metres of the existing western boundary hedge or adjacent woodland and as specified in the aforementioned report and the Ecological Assessment (reference 12277_R02a_AH_HM, received 10.12.2019)

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with policies NC1 & SS8 of the Torbay Local Plan 2012 to 2030, and guidance in the NPPF.

3. No development shall take place (including demolition, ground works, vegetation) until a Construction Environmental Management Plan (*CEMP: Biodiversity*) has been submitted to and approved in writing by the local planning authority. The CEMP (*Biodiversity*) shall be prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.
 - a) Risk assessment of potentially damaging construction activities.
 - b) Identification of 'biodiversity protection zones'.
 - c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
 - d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
 - e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
 - f) Responsible persons and lines of communication.
 - g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority. Details of how mitigation measures have been adhered to shall be submitted to the Local Planning Authority prior to occupation of either of the buildings hereby approved.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with policy NC1 of the Torbay Local Plan 2012 to 2030, and guidance in the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

4. Prior to the occupation of either of the buildings a Landscape and Ecological Management Plan (LEMP) shall have been submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery. All post-construction site management shall be undertaken in accordance with the LEMP. Details of how mitigation measures have been adhered to shall be submitted to the Local Planning Authority prior to occupation of either of the buildings hereby approved.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with policy NC1 of the Torbay Local Plan 2012 to 2030, and guidance in the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

5. Notwithstanding the approved plans, no external lighting should be installed within the development unless previously approved in writing by the Local Planning Authority to ensure no adverse impacts on bats.

Reason: In the interests of biodiversity in accordance with Policies DE1 and NC1 of the Torbay Local Plan 2012 to 2030.

6. The development shall be carried out in strict accordance with the approved landscaping details (ref: 12277-P01, received 10.12.2019). All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of each building 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 six months of each building being brought into use, and shall be retained for the life of the development.

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

7. The development shall be undertaken in strict accordance with the measures in the approved tree protection plan and arboricultural method statement (ref: TPP & AMS, received 10.12.2019) which includes the implementation of tree and hedgerow protection measures pre-commencement and throughout the construction phase of the development.

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

8. Prior to the occupation of either of the buildings, roosting and nesting features to support bats and birds shall be installed on the building or within the site in accordance with details which have been previously submitted to and approved in writing by the Local Planning Authority. The development shall proceed in accordance with the approved details and the roosting and nesting features shall be retained and maintained for the lifetime of the development.

Reason: To safeguard protected species and their habitats in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.0.

9. No tree works or felling, cutting or removal of hedgerows or other vegetation clearance works shall be carried out on the site during the bird breeding season from March to September, inclusive. If this period cannot be avoided, these works shall not be undertaken until the reasons why have been submitted to and approved in writing by the Local Planning Authority. The works shall not be undertaken except in the presence of a suitably qualified ecologist. If breeding birds are found or suspected, the works will not be permitted until the ecologist is satisfied that breeding is complete.

Reason: To ensure no harm to breeding birds in accordance with Policy NC1 of the Torbay Local Plan 2012 to 2030, and guidance in the NPPF.

10. Prior to the first occupation of either building, a framework for the preparation of a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The framework shall set out the proposed contents of the plan. Within three months of the first occupation of each of the buildings hereby approved, a Travel Plan shall be submitted to, and approved in writing

by the Local Planning Authority. The plan shall include measurable outputs and arrangements for monitoring and enforcement.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff, and minimise peak time commercial vehicle movements in accordance with guidance in the NPPF and policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

11. Prior to the installation of any plant to serve the buildings, full details of the plant and equipment (to include the proposed flue and air handling units) to be used, including its location, scale, design and relevant noise and odour calculations shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

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

12. Prior to the first building being occupied, the cycle parking and waste storage shall be provided as approved and maintained as such at all times thereafter.

Reason: To promote cycling as an alternative mode of transport to the private car in accordance with Policy TA1 of the Torbay Local Plan 2012 to 2030, and to ensure appropriate space is provided for the storage and removal of waste, including recycling bins, in accordance with Policy W1 of the Torbay Local Plan 2012 to 2030.

13. Prior to the occupation of either building, a waste management plan (to include measures to prevent and minimise, re-use and recycle waste (including composting where appropriate), minimise the use of raw materials, minimise the pollution potential of unavoidable waste, seek alternative modes of transport to move waste, make provision for the storage and collection of waste and dispose of unavoidable waste in an environmentally acceptable manner) shall be submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in accordance with the approved details.

Reason: To ensure that waste generation is minimised and reduced during the construction and operation of the development in accordance with policy W2 of the Torbay Local Plan 2012-2030.

14. If, during development, contamination not previously identified is found to be present at the site then no further development shall be carried out until the a remediation strategy detailing how the unsuspected contamination shall be dealt with has been submitted to and approved by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that any unsuspected contamination is satisfactorily dealt with without risk to health in accordance with policy ER3 of the Torbay Local Plan 2012-2030.

15. Prior to the first building being occupied, further information relating to footpaths, drop kerbs and crossing points associated with the development shall be submitted to the Local Authority. The development shall be completed in full accordance with the approved details and shall be completed prior to the occupation of the building to which they relate and thereafter permanently maintained.

Reason: In the interests of local amenity to ensure safe and suitable access for pedestrians in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

16. Prior to the first use of either building the parking facilities for that building, as detailed on the plans hereby approved, shall be provided in full and made available for use, and thereafter permanently retained for the parking of vehicles for that building.

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

17. Other than within those areas shown on the approved plans, there shall be no open air external storage of materials or equipment within the site, materials and equipment shall only be stored within the building hereby approved.

Reason: In the interests of local amenity in accordance with Policies DE3 and SS8 of the Torbay Local Plan 2012-2030.

18. Prior to the occupation of either of the buildings the approved surface water drainage system for that building must be completed in accordance with the submitted plans. The surface water drainage system as detailed on these plans shall then be continually maintained thereafter.

Reason: As Torbay is designated as a Critical Drainage Area and to ensure that the development does not increase flood risk elsewhere in accordance with policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

19. The development shall proceed in strict accordance with materials indicated on the approved plans and shall be retained as such for the life of the development unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan, and Policy PNP1 (c) of the Paignton Neighbourhood Plan.

Relevant Policies
Torbay Local Plan

SS1 - Growth Strategy for a prosperous Torbay
SS2 - Future Growth Areas
C1 - Countryside and the rural economy
M3 - Preserving and safeguarding of limestone resources and key local building stone
SS4 - The economy and employment
SS5 - Employment space
SS7 - Infrastructure, phasing and delivery of employment
SS8 - Natural Environment
SS11 - Sustainable Communities Strategy
DE1 - Design
DE3 - Development Amenity
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
NC1 - Biodiversity and Geodiversity
C4 - Trees, hedgerows and natural landscape features
ER1 - Flood Risk
ER2 - Water Management
SDP3 - Paignton North and Western area

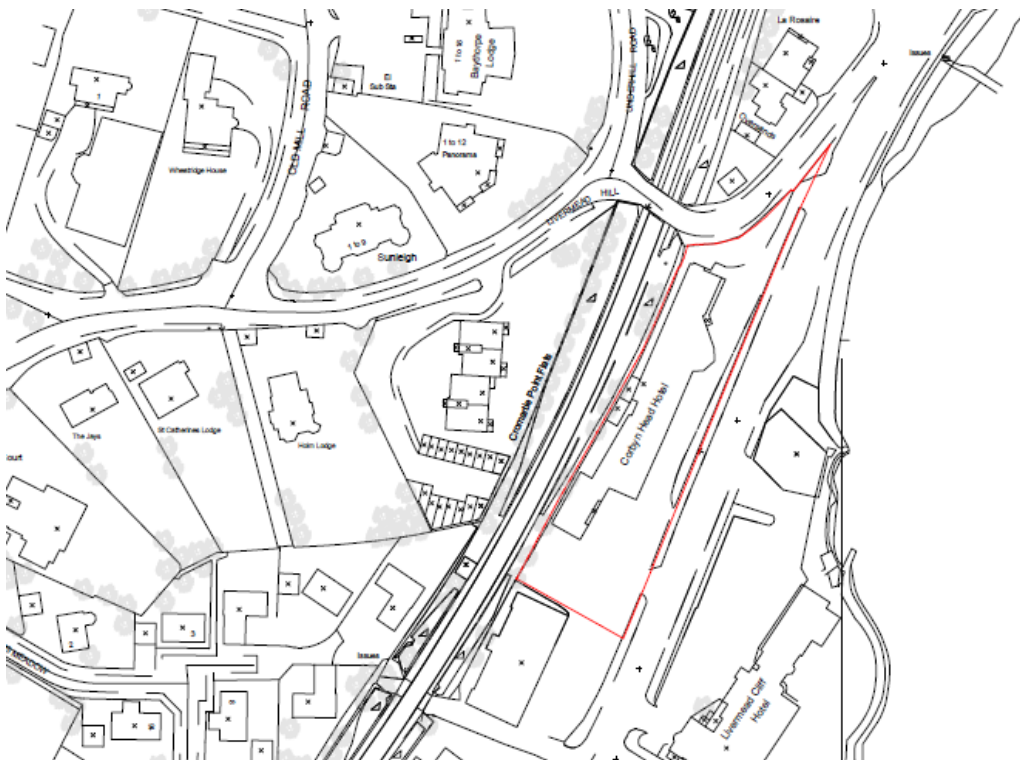
Paignton Neighbourhood Plan

PNP1 – Area Wide
PNP1 (c) – Design Principles
PNP1 (e) – Commercial Development



Application Site Address	Corbyn Head Hotel, Torbay Road, Torquay, TQ2 6RG
Proposal	Variation of Conditions relating to application P/2019/0699. Condition P1. Variation sought: Revisions to elevations and internal layout. Addition of one bedroom and car parking space. Reduction of building height and reduction in north-south building length.
Application Number	P/2020/0420
Applicant	Fragrance UK - Torquay 2 Limited
Agent	Kay Elliott Architects
Date Application Valid	02.05.2020
Decision Due date	
Recommendation	That planning permission be granted subject to the completion of a deed of variation to the original legal agreement to secure financial contributions towards sustainable transport and local parking restrictions, and compliance with the conditions detailed at the end of this report.
Reason for Referral to Committee	Major variation of condition application with objections.
Planning Case Officer	Alexis Moran

Location Plan



Site Details

The site is a broadly rectangular area of land measuring around 3300sqm in area, comprising land occupied by the Corbyn Head Hotel, and situated along the western side of Torbay Road in Torquay. The site is located approximately 1.2 miles (2km) to the south-west of Torquay town centre; 1.9 mile (3km) to the north-east of Paignton town centre; half a mile (800m, or a 10 minute walk) from Torquay railway station; and 0.8 miles (1.3km) from the Riviera International Centre and Abbey Sands development (formerly Palm Court). The site is located within the Core Tourism Investment Area and within Flood Zones 2 and 3.

The site's south-eastern boundary runs alongside Torbay Road; the northern end of the site adjoins Livermead Hill; the north-western boundary runs alongside the railway; whilst the southern end of the site lies adjacent to the Corbyn Apartments, which are in use as holiday lets and dwellings. Ground levels generally rise up steeply to the west beyond the railway line and behind the existing hotel.

The existing building is a standalone structure, which is two to three storeys in height and is set within a curtilage area mostly comprised of a car park. The building fronts onto Torbay Road, and the site has two vehicular access points onto the public highway.

The locality is characterised by a range of building types including hotel buildings, apartment blocks, and houses. The neighbouring Corbyn Apartments is a four storey building with a mansard roof; to the west, and located on the hillside beyond the railway line, is the Cromartie Point Flats building, which is four storeys in height, and there are various other, similarly sized apartment buildings around the same location, off Livermead Hill. The three-storey Livermead Cliff Hotel is located on lower ground to the south-east.

The railway line, which runs alongside the site is classed as a County Wildlife Site.

Detailed Proposals

This application seeks a minor material amendment to application P/2019/0699 which granted planning approval for;

“Demolition of existing hotel and formation of new hotel with ancillary facilities. (Resubmission of application P/2018/1086.)”

The amendment relates to Condition: P1 - Plans and intends to substitute the drawings to permit revisions to the elevations and internal layout to provide one additional bedroom and one additional car parking space. The proposal includes the reduction of the building height and a reduction in north-south building length.

The key changes are:

- A reduction in the overall length of 495mm as a result of relocating the vertical circulation to the Southern end of the building.
- Updated parking arrangements and removal of split levels to improve the flow of pedestrians and vehicles within the site and the hotel.

- A better distribution and use of internal spaces which has resulted in the addition of 1 guestroom and 1 parking space.

Other alterations include the addition of a rendered column adjacent to the hotel entrance to accommodate the revised lift location, the addition of louvres at ground floor level on the wall elevation facing Torbay Road and an increase in the built form on the fourth floor to accommodate an increase in the rooftop bar from 192m² to 252m².

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")
- Torquay Neighbourhood Plan

Material Considerations

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

Relevant Planning History

P/2019/0699MPA - Demolition of existing hotel and formation of new hotel with ancillary facilities. (Resubmission of application P/2018/1086). APPROVED 20.11.2019

P/2018/1086/MPA - Demolition of existing hotel & formation of new hotel with ancillary facilities. REFUSED 10.06.2019

Summary of Consultation Responses

South West Water: No comment

Network Rail: No objections to the variation of condition P1.

Police Designing-Out Crime Officer: Thank you for requesting consultation on the above. Having reviewed the revised drawings to vary condition P1 of P/2019/0699 I would like to advise that the police have no further comment to make from a designing out crime and disorder perspective.

Natural England: No comment

Highways: No objections

Strategic Transport: *I am writing to provide transport comments in response to the planning application (P/2020/0420) at Corbyn Head Hotel, Torquay. I note the application seeks a variation of the previous scheme, which, of concern to transport rearranges the car park layout and adds an additional bedroom.*

Please note the comments below relate only the changes proposed and as such all other comments made previously apply equally to this proposal.

The off-site highways works appear unchanged and therefore are considered acceptable, however, they do still require a S278 agreement to ensure appropriate delivery.

With regards to the number of car parking spaces, it appears that this has increased from 101 to 102. Clearly, even with the additional bedroom this increases the ratio.

The change in parking provision and the layout of those spaces, enables more space in front of the hotel for vehicle and coach parking.

Arboricultural Officer: No objections subject to the use of a condition to secure a detailed landscaping scheme as per the original application.

Drainage: I can confirm that the proposed variation will have no impact on the impermeable area of the proposed development and therefore providing the drainage is constructed in accordance with the submitted drainage strategy, hydraulic design and drawings, I have no objection on drainage grounds to the variation of planning condition P1 being granted for this development.

Environment Agency: No comment received

TDA : As per previous letter of support, TDA supports the proposed planning application. P/2020/0420 VC - Corbyn Head Hotel Torbay Road

Senior Environmental Health Officer: Further to your recent consultation regarding the above mentioned variation I would confirm that I have no objections. Should you have any further queries then please let me know.

Torquay Neighbourhood Plan Forum: no comment received at the time of writing this report.

Summary of Representations

At the point of writing this report ten objections have been received.

A summary of the concerns raised to date, where material to planning, is as follows:

- Concerns over the delivery bay on Livermead Hill
- The reduction in height makes no discernible difference to the scale of the building in terms of impact on residential amenity
- Accessing the site
- Parking
- Insufficient landscaping details
- Siting of spa condenser on roof

- Loss of privacy
- Increase in mass of roof

It should be noted that the proposal does not intend to alter the previously approved aspect of the proposal which relates to the loading bay on Livermead Hill.

The conditions on the approved application requiring further information to be submitted and approved with regards to privacy screens to limit overlooking, external lighting and noise levels from plant to minimise the impact on residential amenity are to be retained as part of this application.

Key Issues/Material Considerations

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 key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

It is important to note that this application only considers the proposed changes to the approved application P/2019/0699 and that other considerations, which do not make up part of the proposed alterations under this application, are not intended to be revisited.

The matters for consideration are:

1. Design and Visual Impact
2. Impact on Amenity
3. Trees and Ecology
4. Flooding and Drainage
5. Highways Impact
6. S106

1. Design and Visual Impact

The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it 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'. New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.

Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criterion 3 refers to development that helps to develop a sense of place and local identity and criterion 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character in terms of height, scale, and bulk; and reflect the identity of its surroundings.

Policy DE4 (Building Heights) states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. New development should be constructed to the prevailing height within the character area in which it is located, unless there are sound urban design or socio-economic benefits to justify a deviation from this approach. The policy goes on to state that new buildings above the prevailing height will be supported where they:

- Enhance the vitality of an area
- Contribute to the regeneration of Torbay
- Strengthen the character of an area
- Are appropriate in terms of their visual impact
- Provide wider urban design or socio-economic benefits
- Make a positive addition to the built form, townscape and surrounding landscape; and
- Preserve or enhance local and long-distance view, and key vistas.

In terms of its height and scale, the minor material amendment to the approved scheme (P/2019/0699) proposes a reduction in the overall height of the building by 500mm and a reduction in its overall width of 495mm.

There is an increase in the width and depth of the building and plant screen to the southern area of the fourth floor level as a result of accommodating a gym facility and to amend the location of the spa at this level to provide a larger rooftop bar area (from 192m² to 252m²).

The increase in mass at fourth floor level is lower than the highest point of the approved scheme. The building would remain substantially recessed at fourth floor level when viewed from the east and west elevations.

The alteration to this aspect of the proposal would be more visible from the south of the building. However even with its increase in width it would not result in it being as wide as the northern part of the fourth floor level. Bearing this in mind and as the southern part of the fourth storey would be well set in from the southern part of the storey below (by some 18m) it is deemed that the minor material amendment would have an acceptable impact on the character and design of the approved development.

The alterations to the elevations include the addition of a rendered column on the east elevation adjacent to the hotel entrance, which is to house the revised location of the lifts, the entrance to the hotel is also reduced from 4 doors to 2. The proposal also includes the addition of louvres into the walls facing Torbay Road. Although the reduction in the size of the entrance doors could be considered to be an unfortunate alteration to the original scheme, there is still a large area of glazing here which retains

the direct view between the reception desk and the entrance doors and which allows for views of the sea from the lobby and reception areas.

The proposals are considered to be minor in terms of the amendments to the approved application P/2019/0699, the overall design, height and scale of the development remain acceptable and the overall development continues to comply with Policies DE1, DE4 and SS11 of the Local Plan, Policies TH8, TS2 & TS4 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

2. Impact on Amenity

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

Objectors have raised concerns about the proposal's potential impact on neighbouring and local amenity, through overlooking and noise from roof plant. The approved application on the site included conditions requiring the applicant to provide:

- a scheme to protect the privacy of neighbouring occupiers (condition 18),
- details of boundary treatment (condition 13),
- details of an external lighting strategy (condition 4),
- a noise assessment to show the rating level of any plant and equipment to be at least 5dB below the background noise level (condition 17).

And the following restrictive conditions:

- to prevent access to the roof-top terrace between the hours of 22:00hrs and 08:00hrs (condition 19),
- use of the rooftop bar and spa (this shall be amended to include the rooftop gym) restricted to hotel guests and not open to the general public at any time (condition 22)

These conditions would be retained as part of an approval for this application.

The proposed minor material alterations to the height, overall roofline and the length of the building are likely to result in minimal daylight and sunlight impacts to neighbouring properties when compared to the approved scheme and as such, the proposal is deemed to remain in accordance with Policy DE3 of the Local Plan.

3. Ecology and landscaping

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments, and fauna and flora, commensurate to their importance. Policy TE5 of the Torquay Neighbourhood Plan states that, where appropriate, an assessment of impacts upon any existing protected species or habitats should be undertaken and the use of necessary mitigating arrangements, in order to protect and enhance species and habitats, should be provided.

The site is comprised of hardstanding areas and the existing hotel building, and is of very limited ecological value.

The proposed minor material amendment to the approved scheme does not result in any new or different ecological issues and the proposal remains in accordance with

Policy NC1 of the Local Plan. The previous mitigation measures, secured by condition 5, remain. Condition 4 is not altered by the minor material amendment application, this condition requires an external lighting scheme to be submitted to ensure the prevention of light intrusion to bat habitats and flyways.

The current proposal is an amendment of a previously proposed scheme (P/2019/0699) which was subject to an appropriate assessment in accordance with the Habitat Regulations. This concluded that there would be no Likely Significant Effect on the Marine SAC providing that the proposed mitigation measures are secured by planning conditions. It is considered that the current application to vary of the previously approved scheme does not result in any changes which would be material to the previous conclusion, no additional material information has emerged or any circumstances have changed so as to make the previous decision out of date and the analysis underpinning the reasoning, conclusion or assessment of the previous HRA is considered to be sufficiently rigorous and robust. The current application includes the same mitigation measures which were deemed acceptable for the previous consent, therefore, it is appropriate to adopt the assessment conclusions of the previous HRA and secure the same mitigation for the current revised scheme.

The Council's Senior Tree and Landscape Officer has confirmed that the landscaping scheme for the proposal can be submitted via condition as per the original application (condition 6).

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

4. Flooding and Drainage

Policy ER1 (Flood risk) states that development must be safe for its lifetime, taking account of its future use, function and government projections of how the risk of flooding may change in response to climate change. Development proposals will be expected to 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 previously approved drainage scheme involved the discharge of foul effluent to the public combined sewer and South West Water confirmed that there is sufficient capacity. Surface water would be discharged to the sea via a new, directionally-drilled outfall.

The minor material amendment to the approved scheme will follow the principles agreed for the previous application. There are two minor adjustments, being the area of the green roof and the reduction in level of the lower car park by approximately 700mm in order to be able to achieve the overall reduction of 500mm of building height. The Council's drainage engineer has confirmed that he has no objection to the variation of condition P1 provided the drainage is constructed in accordance with the submitted drainage strategy, hydraulic design and drawings.

Subject to the retention of the aforementioned condition (condition 2), the proposal is considered to remain acceptable, having regard to Policy ER1 of the Torbay Local Plan, the NPPF, and the PPG.

5. Highway Impact

Policies TA2 (Development Access) states that 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) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per guestroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

Policy TH9 of the Torquay Neighbourhood Plan states that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel. Policies THW5 (Access to Sustainable Transport), THW6 (Cycle Storage and changing facilities), and TTR2 (Sustainable Communities) are also of relevance.

The proposed alterations to the approved parking layout results in the addition of 1 bedroom and 1 parking space. The addition of the parking space increases the number of spaces from 101 to 102 and results in a minor improvement to parking ratio provided by the development.

This application also proposes updated parking arrangements and the removal of split levels to improve the flow of pedestrians and vehicles within the site and the hotel which provides more space in front of the hotel for vehicle and coach parking. This includes amended vehicle tracking details which the Highways Officer has raised no objection to.

Concerns have been raised by objectors in relation to the proposed loading bay along Livermead Hill, this does not form part of the minor material amendment application under consideration and is retained as per approved application P/2019/0699.

The Council's Strategic Planning advice is that the off-site highways works appear unchanged and therefore are considered acceptable, the previous condition relating to the requirement of a S278 agreement to ensure appropriate delivery will be retained.

The previous condition requested by the Council's Structural Engineer to secure details of the proposed demolition and construction works with a view to preventing any harm to the structural integrity of the public highway is to be retained.

Subject to the use of the aforementioned conditions, the completion of a deed of variation to the previously agreed S106 legal agreement, and, as with the previously approved application, the provision of works to be secured through the completion of a Section 278 agreement, on balance, it is considered that the proposal would not result in unacceptable harm to highway safety or amenity, and that it would be in accordance

with Policies TA1 and TA2 of the Local Plan, Policies TH9, THW5, THW6, and TTR2 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

6. S106

The agreed S.106 agreement to provide sustainable transport contributions will require a deed of variation to link it to this minor material amendment application.

Community Infrastructure Levy

The proposal is for the addition to/improvement of an existing tourist facility, Torbay Council collect CIL payments for new dwellings and for larger out-of-town/district centre retail and food and drink developments. Therefore the proposal would not be liable for a CIL payment.

Statement on Human Rights and Equalities Issues

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

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

EIA

Due to its scale, nature and location this proposal does not need to be screened under the Environmental Impact Assessment Regulations.

Proactive Working

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

Conclusions

The proposed minor material amendment is considered to be acceptable for conditional approval, subject to a deed of variation to the original s.106 agreement, having regard to the Development Plan, and all other material considerations.

Officer Recommendations

That planning permission be granted subject to the completion of a deed of variation to the legal agreement signed as part of application P/2019/0699, compliance with the

conditions detailed at the end of this report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change.

And the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Change, including the addition of any necessary further planning conditions or obligations.

Condition(s)/Reason(s)

01. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- a) A demolition method statement;
- b) Details of any excavation, earthworks, or piling works including the method and equipment to be used;
- c) The parking of vehicles of site operatives and visitors;
- d) Loading and unloading of plant and materials;
- e) Storage of plant and materials used in constructing the development;
- f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- g) Wheel washing facilities;
- h) Measures to control the emission of dust, litter and dirt during construction;
- i) Measures to minimise noise nuisance to neighbours from plant and machinery;
- j) Construction working hours being limited to 0800hrs to 1800hrs Monday to Friday, 0800hrs to 1300hrs on Saturdays, and at no time on Sundays, Bank or Public Holidays.

The approved Statement shall detail the ways in which harm to the safety, use, and integrity of the public highway and railway will be prevented, and shall be adhered to throughout the construction period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies DE3, ER3, ER4, and TA1 of the Torbay Local Plan. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

02. The hotel hereby approved shall not be brought into use until the proposed arrangements for foul and surface water drainage have been provided in full, in accordance with the approved document entitled "Foul and Surface Water Drainage Strategies" (July 2019). Once provided, the approved drainage arrangements shall be maintained for the life of the development.

Reason: In the interests of sustainable drainage and in accordance with Policy ER1 of the Torbay Local Plan. These details are required pre-commencement as specified to prevent the installation of measures that might result in harm to the railway.

03. 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. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar. A sample panel shall be constructed on site and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.

Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan

04. Prior to the first use of the development hereby approved, details of a lighting strategy relating to the illumination of the building, public realm and associated areas shall be submitted to and approved in writing by the Local Planning Authority. The submitted lighting strategy shall give particular consideration to preventing light intrusion at neighbouring properties, and in relation to bat habitats and flyways. The development shall thereafter be undertaken in accordance with the approved details and shall be retained as such indefinitely.

Reason: To ensure that the architectural quality of the building and its setting is highlighted through an appropriate scheme of lighting and to prevent harm to neighbouring occupiers and bats, and to comply with Policies DE1, DE3, and NC1 of the Adopted Local Plan.

05. Prior to the first use of the development hereby approved, 5 Schwegler type 2F or similar bat tubes and 5 bird nesting boxes shall be installed (in accordance with manufacturer's instructions for correct siting and installation) on the new hotel and retained at all times thereafter, in-line with the mitigation measures outlined within the submitted Bat and Breeding Bird Survey.

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

06. Notwithstanding the submitted landscaping details, prior to the first use of the hotel hereby approved, details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. 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 of the Adopted Torbay Local Plan 2012-2030.

07. Prior to the first use of the development hereby approved, a Travel Plan and Car Parking Management Strategy shall be submitted to and approved in writing by the

Local Planning Authority. The Travel Plan shall set out how at least 30% of the development's potential users can gain access by foot, cycle or public transport, and how this will be implemented and monitored including SMART targets and an annual review. The Travel Plan shall be continually monitored by a Travel Plan Coordinator (TPC) appointed to ensure that it meets its objectives and targets. In the event that the objectives and targets of the Travel Plan are not met, the Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Travel Plan or updated Travel Plan, shall be made available to the Local Planning Authority upon request during normal business hours and the contact details of the TPC shall be provided in all iterations of the Travel Plan. The Car Parking Management Strategy shall include details of car parking allocation including details of staff and visitor parking, along with the proposed measures for accommodating guest and visitor vehicles when the on-site car park is at full capacity. The development shall, at all times, be operated in accordance with the approved details.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

08. Prior to the first use of the development hereby approved, a delivery management plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall include details about the proposed organisation of deliveries to prevent queuing of delivery vehicles within the public highway and addressing the proposed arrangements for deliveries during seafront closures. The hotel shall be operated in accordance with the approved details at all times.

Reason: In the interests of road safety and in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

09. Prior to the first use of the development hereby approved, a road safety audit shall be submitted to and approved in writing by the Local Planning Authority, detailing the proposed measures for ensuring pedestrian and other road-user safety along the public highway around the site. The approved measures shall be implemented in full prior to the first use of the development.

Reason: To provide safe and sustainable highway arrangements in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

10. Prior to the first use of the development hereby approved, the parking facilities, manoeuvring areas, and electric charging points shown on the approved plans shall be provided and thereafter permanently retained for the use of vehicles associated with the development.

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

11. The development hereby approved shall not be brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway, as indicated on the approved plans. The development

shall not be brought into use until the S278 works have been completed to the satisfaction of the Local Highway Authority.

Reason: To provide safe and sustainable access to the site for drivers, cyclists and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

12. Prior to the first use of the development hereby approved, details of signage in relation to the proposed access and egress arrangements shall be submitted to and approved in writing by the Local Planning Authority. The southern vehicular access point shall be used as an entrance only, and the northern egress point shall be used for exiting the site only. The approved signage shall be installed prior to the first use of the development, and shall be permanently retained thereafter.

Reason: To provide safe and sustainable access to the site for drivers, cyclists and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

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

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

14. Prior to the first occupation of the development hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

15. The use of the proposed loading bay at Livermead Hill, including all deliveries and collections, shall be limited to the hours of 0800hrs to 1800hrs Monday to Friday, and 0800hrs to 1300hrs on Saturdays. No such deliveries or collections shall take place on Sundays, Bank, or Public Holidays.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

16. The development hereby approved shall not be brought into use until details of the means of ventilation for the extraction and dispersal of cooking smells/fumes, including details of its method of construction, odour control measures, noise levels, its appearance and finish have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be installed before the use hereby permitted commences and thereafter shall be permanently retained.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

17. The development hereby approved shall not be brought into use until an assessment to show that the rating level of any plant and equipment, to be installed as part of this development, will be at least 5 dB below the background level has been submitted to and approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 2014 (methods for rating and assessing industrial and commercial sound). All plant installed shall be operated in accordance with the approved details for the life of the development.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

18. Prior to the first use of the development hereby approved, a scheme of measures to protect the privacy of neighbouring occupiers shall be submitted to and approved in writing by the Local Planning Authority. The submitted measures shall include obscure glazing and privacy screens in relation to openings, balconies, and terraces that may permit overlooking towards neighbouring properties, particularly those located to the south and north. The approved measures shall be fully installed prior to the first use of the development and shall thereafter be retained for the life of the development.

Reason: To protect neighbouring occupiers from unacceptable levels of overlooking, in accordance with Policy DE3 of the Torbay Local Plan.

19. No access to the roof-top terrace shall be allowed between the hours of 2200hrs and 0800hrs daily, and no audio equipment shall be used in this outdoor area at any time.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

20. 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 Torbay Local Plan, and Policy TH2 of the Torquay Neighbourhood Plan.

21. Should any contamination be found during the course of the development, all construction works shall cease until such time as a scheme of remediation has been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in full accordance with the approved details.

Reason: In the interests of addressing potential contamination in accordance with Policy ER3 of the Torbay Local Plan.

22. The restaurant, roof-top bar, spa and gym, hereby approved, shall only be open to hotel guests, and shall not be open to the general public at any time.

Reason: In the interests of ensuring adequate parking arrangements to serve the development, in accordance with Policy TA3 of the Torbay Local Plan.

Informative(s)

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003. The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

DE1 - Design
ER1 - Flood Risk
ER2 - Water Management
ER3 - Contamination
ER4 - Ground Stability
NC1 - Protected sites - internationally import
TO1 - Tourism, events and culture
TA2 - Development access
TA3 - Parking requirements
DE4 - Building heights
DE3 - Development Amenity
C4 - Trees, hedgerows and natural landscape
SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in Favour of Sustainable Development
SS4 - The economy and employment
SS11 - Sustainable Communities
TC5 - Evening and night time economy
TH2 - Designing Out Crime
TH8 - Established Architecture
TH9 - Parking Facilities
TE1 - Tourism Accommodation on Brownfield Sites
THW5 - Access to Sustainable Transport
THW6 - Cycle Storage and Changing Facilities
TTR2 - Sustainable Communities

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

03. SAFETY

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and

by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start. assetprotectionwestern@networkrail.co.uk

SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

NOISE

Network Rail would remind the council and the applicant of the potential for any noise/vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should use conditions as necessary.

The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.

There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise.

LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.

LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or

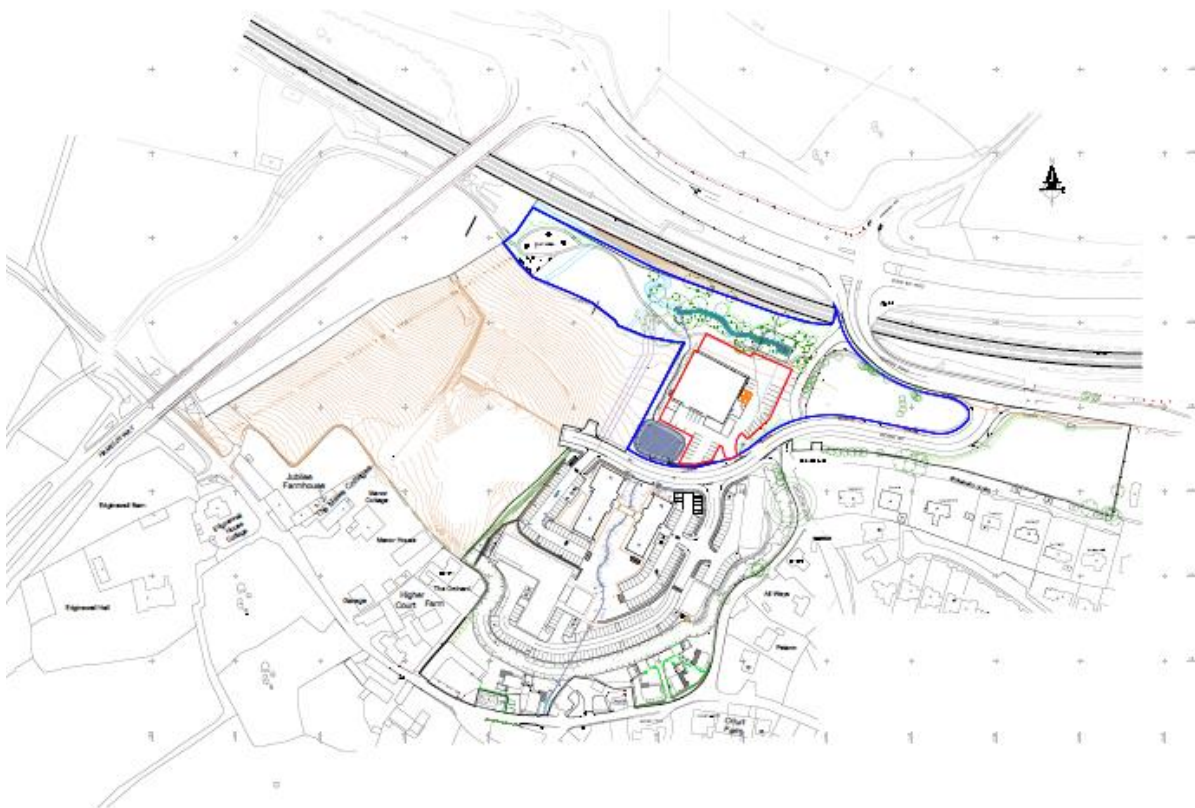
high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

04. 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. This permission is accompanied by a Section 106 Agreement or Unilateral Undertaking.



Application Site Address	Orchard Way, Edginswell Business Park, Torquay
Proposal	Reconfiguration of car park – retrospective
Application Number	P/2020/0024
Applicant	Eden Vauxhall
Agent	
Date Application Valid	
Decision Due date	
Extension of Time Date	
Recommendation	Approval.
Reason for Referral to Planning Committee	Request by Ward Cllr and agreement by Chairman
Planning Case Officer	Scott Jones

Location Plan



Site Details

The plot sits within the Edginswell Business Park and holds a recently built car showroom. The plot sits to the north of Orchard Way, the spine road through the business park.

To the south west corner of the plot there is a balancing pond. To the west there is a watercourse that runs north along the entire edge of the site. To the north there is a tree lined watercourse that runs east towards a culvert close to the north east corner of the site. To the east the site abuts a footpath. The trees that line the watercourse that runs close to the northern boundary are protected under a group Tree Preservation Order (TPO).

In terms of other notable designations the site sits at the edge of the identified Landscape Connectivity Zone associated with the South Hams SAC linked to the Greater Horseshoe Bat. In the Torbay Local Plan 2012-30 the site is within a Future Growth Area. Part of the site is also identified as being a Flood Risk Area and a Local Wildlife Site (OSWI - Other Site of Wildlife Interest). The site sits within a wider identified Growth Area within the Torbay Local Plan and there is also an adopted Masterplan for area, the Torquay Gateway (Edginswell) Masterplan.

Date of Officer Site Visit: W/C 17.02.2020.

Detailed Proposals

Retrospective permission is sought for changes to the car park layout, identified by the applicant as to improve the customer experience and operating efficiency of the site.

The revised layout (ref: 151241-PL11) reduces the amount of service and demonstration car park spaces, but retains the total amount of customer parking. Previously the parking layout was consented to provide 14 customer spaces, 22 service parking spaces, 4 demo spaces and an area identified to enable 45 used car displays. The proposal presents a layout to provide 14 customer spaces, 16 service spaces, 4 demo spaces and a similar area retained for light commercial vehicle and used car displays.

Summary of Consultation Responses

Torbay Council Strategic Transport Officer

The planning application form indicates 12 spaces and 2 disabled spaces (presumably those spaces for customers/staff). However, in the Clarification Note 7th Feb 2020) indicates 15 customer spaces. It would be helpful to understand how the change layout affects both customer and servicing/sales in the context of the original permission (P/2016/0955 MVC).

The change in layout affects both customers parking, service bays and provision of LCVs etc., and so it would be helpful to understand if there is an effect on the overall operation of the site. I note the service bays lost on the western boundary (6 spaces?) plus reconfiguration of remaining spaces on the southern boundary to accommodate the 'car wash/valet' unit. Does, this car wash unit require explicit consent?

If the adjacent open carpark land (within the original permission) is affected by this reconfiguration, should it be incorporated within the current proposal? The showroom element has not (as yet) been delivered and the unmetalled area to the east appears to be used for additional vehicle parking/storage of approximately 50 to 60 vehicles (see google earth). Again, does this require explicit consent and should it be considered as part of the same planning unit? Some of the customer parking appears to be being used for display of vehicles (see Google Earth)? It would be helpful to clarify some of these aspects.

Torbay Council Highways Officer

No Objection.

Torbay Council Drainage Engineer

No Objection.

Summary Of Representations

Publication type: Neighbour notification letters/Site notice.

1 representations have been received objecting as follows:

"This application is clearly a forerunner for an application to make permanent a car wash facility on site as an addition to the buildings making up the dealership. Car wash facilities have been provided since shortly after opening in an unsightly 'Gazebo' style structure for which there is no planning permission and which is recognised as unlawful by both the Planning Authority and by Eden themselves. This has been the subject of lengthy prevarication on both sides.

The original approval was for a scheme to 'pump prime' the "Prestigious Business Park" which is the aspiration of both the Local Plan and the Neighbourhood Plan. The design, as originally approved for BMW and Mini, was seen as the least damaging to that intention. The current use of the smaller site for significant car storage and advertising, by dint of elevated cars with advertising painted on them, contravenes everything that was intended by the original permission and makes an inappropriate entrance to the Business Park as a whole. This concern has been the subject of two years of correspondence between the Local Authority and the Shiphay Community Partnership.

It is important for both Business Park tenants and local residents that this gateway to the Business Park does not degrade the visual and overall aesthetic impact of this important site. There seem to be no logical grounds, other than pre application preparation, for this application and nothing to commend the change.

I wish therefore to oppose this application".

Officer Comment: The concerns appear to relate to a car wash area adjacent to the parking and parking issues for operations outside of the site area for this car show room, and do not relate to the development proposed which is limited to the revised parking layout only over a similar footprint.

Site Review Meeting Procedure

12.05.2020: email sent to Ward Members, Councillors Cowell and Loxton. Response Received from Cllr Cowell requesting the item is considered by the Planning Committee. Request agreed by Cllr Pentney as Chairman.

Relevant Planning History

P/2007/1743:

Mixed use development comprising business use class B1, car showroom, retail warehouse and residential and public house/restaurant (class A3/A4) with associated highway works and car parking (in outline). Approved 06.06.2008.

P/2008/1682:

Mixed use development comprising business uses (B1); cafe/restaurant (A3) and specialist renal clinic (D1) with associated landscaping works, car parking and vehicle/pedestrian access. Approved 23.03.2009.

P/2016/0955:

Variation of condition P1 of P/2007/1743 (Mixed Use Development Comprising Business Use Class B1, Car Showroom, Retail Warehouse And Residential And Public House/Restaurant (Class A3/A4) With Associated Highway Works And Car Parking (In Outline)) to allow amendments to the appearance, footprint and internal layout of one car showroom and alterations to the layout of the parking and car display area. This permission relates solely to those elements granted consent and have extant detailed planning permission under reference P/2007/1743 (two car showrooms and one retail unit). Approved 19.01.2017.

Key Issues/Material Considerations

The main issues are the principle, visual impact, impact upon the amenities of adjacent occupiers, impact upon the highway network and parking provision, impact upon ecology, impact upon trees, and impact upon drainage and flood risk.

Principle

Construction of a car showroom on the site has been approved under the previous parent permissions (P/2007/1743 and P/2016/0955) with similar layouts, with parking wrapping round a building set relatively deeply within the plot. There are no issues of principle relevant to this minor application that principally seeks the amended demarcation of the parking layout for sales vehicles and customers visiting the site.

Visual impact

The change to the external appearance of the plot is minor as the layout and extent of parking is demonstrably similar to the previously approved layout. Importantly it does not impact the previously approved landscaping subject to the parent permission/s between the building and the public realm, or the location or form of the building itself.

It is noted that there is an objection stating concerns on the wider parking adjacent and a car wash facility. These matters do not form part of this application. There is no direct comment on concern relating to the parking layout.

With very little change to the layout and resultant appearance of the plot the proposal is considered acceptable and would not present any detriment to the built environment in comparison with the previously consented scheme. The scheme accords with Policy DE1 of the Torbay Local Plan and advice contained within the NPPF.

Impact upon the amenities of adjacent occupiers

The location and scale of parking remains closely aligned with the previously consented layout to support the car showroom and the amendments that are sought are not considered to present any additional impact upon local residential amenity.

The revised proposal for the parking layout is considered compliant with the aims and objectives of Policy DE3 of the Torbay Local Plan.

Impact upon the highway network and parking provision

The applicant has detailed that the retrospective permission is sought for changes to the car park layout, being identified to improve the customer experience and operating efficiency of the site. It is furthered that the revised layout reduces the amount of service and demonstration car park spaces but retains the total amount of customer parking.

There is no objection from the Highway Authority however the Council's Strategic Transport Officer has raised some points relating to the changes.

Appendix F of the Torbay Local Plan cites that car sales, motor repair and service stations have an estimated requirement / guide of 1 visitor space for every 10 cars displayed for sale and 3 car spaces for each vehicle service bay. There is no parking policy relevant to commercial development within the Torquay Neighbourhood Plan.

Having considered the issues raised the amendments to the parking layout are considered to present an acceptable form of development. This conclusion is founded on the basis that the level of customer parking is retained and the reduction in demo and service parking is principally a matter for the internal operation of the site rather than presenting broader movement issues. The main demonstrable change in the layout is the reduction of service parking from 22 spaces to 16 spaces, which presents a reduction of 6 spaces. The reduction has no ability to impact the wider road network as there is restricted parking (double yellow lines) in the area and hence the change is only likely to impact the internal workings of the business. As the supporting information cites that the changes are to improve the customer experience and operating efficiency of the site it is deemed that there is no demonstrable reason not to support the amendments due to the lack of any wider impact. This assessment takes into account that the customer parking levels are above the local plan expectation but the service parking is lower, which would appear to accord with the dealership character of the site where there is likely to be a greater emphasis on car sales than car servicing.

With the scale and form of development being broadly aligned with the consented car showroom the amendments that are sought are not considered to present any unacceptable impacts upon movement or the highway network. The NPPF guides (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The revised proposal for the showroom is considered broadly compliant with the aims and objectives of Policy TA1, TA2 and TA3 of the Torbay Local Plan and advice contained within the NPPF.

Impact upon ecology

The changes to the parking layout do not present any further issues relating to ecology. All matters have been previously considered and addressed. Policy TE6 of the Torquay Neighbourhood Plan cites that all development within the Edginswell Future Growth Area or the Maidencombe area (including Sladnor Park) must have a Habitats Regulations Assessment as appropriate and be compatible with ecological requirements set out in the Habitats Regulations. The matter has been considered and a HRA is not considered necessary for this development.

The development is considered to accord with the aims and objectives of Policy NC1 of the Torbay Local Plan and the Torquay Neighbourhood Plan.

Impact upon trees

There is a protected tree belt to the north of the development however the changes to the parking layout do not present any further issues relating to trees. All matters have been previously considered and addressed.

The proposal is considered to be aligned with the aims and objectives of Policy C4 of the Torbay Local Plan.

Impact upon drainage and flood risk

There are watercourses to the west and north and the previous permission established an acceptable footprint of development and defined the required easements to each watercourse through the approved plans and conditions.

The Council's Drainage Engineer does not object to the proposal.

The development is considered in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

Human Rights and Equalities Issues

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced

and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

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

Local Finance Considerations

S106/CIL and Affordable Housing

S106: N/A

CIL: N/A

EIA/HRA

EIA

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

HRA

The proposed development is unlikely to have a significant effect on the South Hams SAC/Lyme Bay and Torbay SAC. It sits within the identified Landscape Connectivity Zone but the site is urbanised. The minor layout change would not result in a likely significant effect.

Proactive Working

In accordance with the guidance contained in the National Planning Policy Framework the Council has worked in a positive and pro-active way and has concluded that the application is acceptable for planning approval/ imposed conditions to enable the grant of planning permission.

Conclusions

The proposals are considered to accord with the provisions of the Torbay Local Plan 2012-2030 and Torquay Neighbourhood Plan when considered as a whole and the application is recommended for approval. There are no other material considerations to indicate that planning permission should not be granted.



Application Site Address	Land North Of Totnes Road, Collaton St Mary Paignton
Proposal	Outline application: Development of up to 100 dwellings, including affordable and market housing. Associated landscaping, open space, drainage and highways infrastructure at Land North of Totnes Road together with new access onto Totnes Road.
Application Number	P/2019/0281
Applicant	Bloor Homes (South West) Ltd
Agent	Boyer Planning
Date Application Valid	08.04.2019
Decision Due date	08.07.2019
Extension of Time Date	08.07.2020
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency and; the completion of a S106 Legal Agreement to secure Affordable Housing and other identified obligations, to include the provisions outlined within the report.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

Location Plan



Committee Update following deferral at the 8th June Planning Committee

Additional information for Members on two key concerns discussed regarding the safety audit and the junction safety;

Safety Audit

Highway safety audits for stage 1 and 2 (pre scheme delivery) are largely desk based assessments though it will often be the case that the auditor will visit the site to understand some of the specific physical issues that may not be apparent in a solely desk based assessment. The auditor will have further information that has been contained within the Transport Assessment and design work for the scheme to fully appraise themselves of the position.

In this case the audit was carried out in June 2019 with a site visit on Friday 21st June 2019. The audit team included an Independent Road Safety Auditor. A designer's response was also prepared, completed in July 2019, which accepted the recommendations of the Safety Audit. Further safety measures in respect of warning signage westbound on Totnes Road has also been included.

With regards to the assessment of traffic in the area, this is the role of the Transport Assessment, not the Road Safety Audit. A traffic count was carried out on 27th March 2018, a neutral month in accordance with best practice from Department for Transport, at peak times between 0700-1000 and 1500-1900. This document includes the survey data, as well as accident and historic speed data.

Junction Safety

With regards to the junction itself this is a T-junction design and, as with any new junction or highway scheme, the risk has to be assessed. To be clear, there is always risk when constructing a new highway but if this remains within acceptable levels (and given the traffic levels at this junction this is considered to be the case) then the scheme is considered safe to construct.

The transport assessment sets out details of the trip generation expected and modelled to and from the site. In this case there are 48 trips in the am peak and 46 trips in the pm peak expected – this is the total trips both into and out of the development. This trip generation rate is calculated using a standard national tool, TRICS. The output is included in the assessment. As with any modelling tool the accuracy and appropriateness of the output relies on the input. The trip generation figure could be argued to be low and this was a point identified in the review of the assessment. With an increased rate it would result in 60 trips in the am peak and 61 in the pm peak. Again, this is not considered to adversely affect the safety of the junction and the detailed modelling assessments show that the capacity exists within the design of the junction for that number of vehicles.

It is important to recognise that the safety of crossing Totnes Road, via the signalised crossing as opposed to the existing zebra crossing, would be significantly improved. As previously reported the applicant has confirmed that they can include pedestrian and cycle access to the far western end of the site to provide a connection through the

development, removing pedestrians and cyclists from Totnes Road if they wish. Details of this connection will be submitted with the reserved matters application. Additionally a link to the Eastern end would prevent the need to cross Totnes Road twice if trying to move east-west or west-east along the northern side of Totnes Road. Taking these points in addition to the trip generation, this arrangement is not considered to pose significant additional risk.

Additional Representations Summary:

Following the committee held on the 8th June an additional 4 letters of representation have been received. The issues raised largely pertain to matters already raised and summarised within the Committee Report. New issues include the following:

- Validity of the application due to reliance on draining works outside of the site.
- The inability to comment due to the late removal of draining works shown outside of the site.
- Highway safety re crossing the new junction.
- School run traffic impacts parking and is likely to spread to impact the new junction if there are parking opportunities there.
- Loss of light and privacy not duly considered to the properties to the south.
- Safety Audit not robust.

Officer Comments on points raised

- The application is considered valid. The initial drainage strategy did not include the additional works, which were introduced through the course of the application to provide a “beyond policy compliant” drainage strategy. The additional measures have been removed from the proposal to provide a policy compliant position and the Council’s drainage engineer does not object to the drainage strategy.
- The amendment to the drainage strategy is considered minor and does not require the re-advertisement of the application. The late amendment responded to a late representation. Following the submission of concerns on the inability to comment there has been no further comment within the subsequent 19 days. As an outline application it is stressed that the drainage strategy is submitted to demonstrate that an acceptable drainage solution can be delivered where the layout is not yet fixed. There will hence be further scrutiny and opportunity for public comment at reserved matters stage.
- Highway safety has been addressed within the response points above.
- Impact on neighbouring plots and occupiers has been previously covered. As an outline application with the layout reserved there will be future scrutiny regarding amenity impacts.
- The robustness of the safety audit has been addressed within the response points above.

Previous Committee Report – 8TH June 2020 Planning Committee:

Site Details

Description

The application site sits to the north of the Totnes Road (A385) and encompasses approximately 18 hectares of what is largely fields, but includes an element of previously developed (brownfield) land of approximately 1 hectare that holds two existing buildings and areas of hardstand. The field system within the site boundary is broken down into 9 fields of varying size. The western part of the site sits behind residential properties along Totnes Road, where 5 fields rise to north towards a hedge and tree lined hilltop. Although largely contained behind the existing frontage development there is a section of the site that fronts directly onto the Totnes Road, comprises a hedge-lined frontage of approximately 64 metres forming a gap between existing residential plots. There is also an access to the existing developed area within the site further east, close to the brow of the hill and the junction with Borough Road. The eastern part of the site (comprising the remaining 4 fields) lies to the north of Borough Park Road, a residential cul-de-sac, culminating to the east where it borders Kings Ash Road. The topography within the eastern part of the site rises from east to west towards the aforementioned hilltop.

Local Character & Services

The existing field system is largely laid to pasture with hedge borders and the occasional small copse. The site is quite steep in places and there is an overall rise of approximately 55 metres from the low points adjacent to the Totnes Road and Kings Ash Road to the hilltop at the northern border of the site.

Across the Totnes Road, to the south there is a public house and to the west there is a parish church and a primary school. Within the wider area there is a secondary school, numerous food retail outlets and a trading estate within relatively close proximity, on the outskirts of Paignton. The general character is a transitional one from an edge of town, residential character to the east to a rural character with more intermittent development (largely residential ribbon development and holiday parks) to the west.

Heritage

There are a number of designated heritage assets nearby and immediately to the south of the site across the Totnes Road lies the Grade 2 listed Collaton Farm building and (converted) barns. To the west, off Blagdon Road there is the Grade 2* listed Church of St Mary, Grade 2 Old School House and Old Vicarage, and a further four Grade 2 listed properties, 391-397 Totnes Road.

Development Plan

In terms of the Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area and is also a site identified for housing within the Collaton St Mary Masterplan, which is an adopted Supplementary Planning Document for the area (adopted February 2016). The Paignton Neighbourhood Plan does not allocate housing sites and hence is silent in terms of designation, however Policy PNP24 does cite that within Collaton St Mary further development beyond the currently developed areas will be supported where the proposals are in accordance with the adopted masterplan for the area. In terms of

other relevant context the valley floor to the south of the site is a linear area with an identified risk of flooding, and the site sits in the Sustainance and Landscape Connectivity zones associated with the South Hams Special Area of Conservation (SAC)(Greater Horseshoe Bat).

Description of Development

The application seeks outline planning permission for up to 100 dwellings with all matters reserved except for access.

Access Proposals

The current access proposal is for the creation of a single vehicular access off the Totnes Road, which is to be located to the east of the existing zebra crossing. The design provides a 6m wide carriageway into the site flanked either side with footways (2m footway one side and a 3m foot/cycleway to one side). Due to the land levels the proposed access would be cut into the land slightly with graded embankments to either side as it heads northwards into the site. The existing pedestrian zebra crossing is to be removed and replaced with a light controlled crossing east of the new junction, 30 metres from the current crossing location. The existing public highway will be treated with anti-skid surfacing to either side of the pedestrian crossing and the final section of the existing foot/cycle way on the southern side of the Totnes Road will be re-marked as for cycles only. In addition, revised plans propose to introduce a 'smart' sign on the brow of the hill to the east to act as a warning of potential queuing to outbound traffic heading from the Tweenaway junction, as there is no designated right hand turn lane proposed into the site. A pedestrian access into the site is proposed at the south-west corner of the site to provide a link to the area around the church and the primary school.

Indicative Detail

The indicative detail submitted to support the proposal seeks to demonstrate that the quantum of development proposed may be appropriately achieved on the site, and includes a masterplan layout, a landscape masterplan layout, sectional drawings and accompanying assessments. The masterplan shows a potential residential layout set around the lower slopes adjacent to the Totnes Road, with the upper slopes and the eastern portion of site proposed for public open space (including allotments) and retained for agriculture respectively. The proposed area for development is approximately 4 hectares of the 18 hectare site, with approximately 7 hectares proposed for open space (including allotments) and approximately 7 hectares retained for agriculture. This presents a proposed density of approximately 23 dwellings per hectare for the developed area. Indicative detail suggests a mixture of detached and semi-detached properties, principally one and two storey in height, with pitched roofs and an expected architectural design informed by the character assessment carried out of the surrounding context. This has highlighted the expected use of brick and render dwellings, with window styles being plain casement with a number of windows featuring horizontal bars, with a roof palette of reconstituted slate and red/brown profiled tile. The indicative residential layout shows two principal east-west roads running across the contour of the hill, parallel to the Totnes Road, with three shorter north-south roads connecting. The upper extent of the development is defined by a

road, which is broadly aligned with the rear boundary line of the residential plots to the east, off Borough Park Road. The indicative landscape masterplan suggests a new field boundary to define the edge of the developed area, with the suggested public open space and allotments to the adjacent upper slopes. The masterplan also suggests a local play area to the west, close to the church and school, along with a suggested pedestrian link at the south western corner of the site. The eastern part of the site, i.e. the 4 fields to the north of Borough Park Road, are to be maintained for agricultural use. The detail summarised above is all indicative and a future reserved matters will resolve all matters except for access.

Pre-Application Enquiry

N/A.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- The adopted Collaton St Mary Masterplan
- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

None.

Summary of Representations

82 public representations received, 79 objections and 3 letters of support. The following provides a summary of the main planning issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Highway safety
- Increased flood risk
- Loss of farmland
- No capacity at the school

- Impact on the health service
- Impact on the sewer system
- Overdevelopment
- Impact on wildlife
- Contrary to the Neighbourhood Plan
- No need for the housing
- Impact on occupiers of properties fronting Totnes Road
- Light pollution
- Noise pollution
- Impact upon bats
- Raises the same issues as previous schemes that have been rejected
- Inconsistent with the Local Plan
- Inconsistent with the Neighbourhood Plan
- Impact on the health service without financial mitigation (NHS Foundation Trust)
- Impact on private views (not a planning issue)
- Impact on house prices (not a planning issue)

Supporting comments include:

- Provides houses
- Provides facilities

Summary of Consultation Responses

Paignton Neighbourhood Forum:

The Forum objects to the application. The proposal should be refused for the following reasons:

- i. Unsatisfactory access: The site access and assumptions made about the impact it would have on additional turning movements and capacity of Totnes Road as a principal highway take insufficient account of the congestion and accident record that already affects the highway. The volume of turning movements into and out of the site at such a dangerous point will be to the detriment of traffic movement and safety to highway users along this important artery from Torbay to Totnes and beyond. The proposal to move the existing pedestrian crossing further away from the village centre is also totally against the longer term objective of encouraging sustainable growth at the heart of the village to the west. The impact of the application submitted conflicts directly with Local Plan Policy TA1/TA2 (Transport, accessibility and development access), the adopted Collaton St Mary Masterplan SPD that shows no access onto Totnes Road and Policy PNP24 (Collaton St. Mary Village) of the Paignton Neighbourhood Plan that expressly requires proposals to be in accordance with the adopted Masterplan for the area having been tested at Independent Examination.
- ii. Overdevelopment: The scale of development proposed of up to 100 dwellings and conversion of farm land adjoining into a large area of public open space conflicts directly with the adopted Collaton St Mary Masterplan and approved Paignton Neighbourhood Plan which indicate a capacity of 70 dwellings having regard to the importance of landscape, biodiversity and

infrastructure constraints that apply. The resulting breach of the Development Plan boundary is unjustified and contrary to the adopted Collaton St Mary Masterplan and Policy PNP1 (Area wide), and Policy PNP19 (Rural Character Area) and Policy PNP24 (Collaton St Mary) of the approved Paignton Neighbourhood Plan.

- iii. Biodiversity: The Ecology Assessment and Shadow HRA submitted with the application refers to baseline documents and that it is not appropriate to use to assess the impact of the proposal in this instance. Namely, the Torbay Local Plan Proposed Submission Plan HRA of 2014 and Draft South Hams SPD of 2018. The former was replaced by the post Examination in Public (EiP) Torbay Local Plan HRA of December 2015 and the latter draft SPD did not progress further due to challenge made during the consultation period involved. Paragraph 3.2.5 of the assessment submitted with the application notes the site falls within the protected Greater Horseshoe Bat 'Sustenance Zone' and two 'Strategic Flyways'. At paragraph 3.2.23 the submitted conclusions state the results of the Bat surveys indicate features present support a 'high' to 'high to moderate' level of Greater Horseshoe Bat activity. At paragraphs 3.4.1 and 3.5.1 the application concludes there will be a likely significant effect on the protected species from the development proposal alone or in combination with other proposals or projects. The assessment made of the 'in-combination' effect fails to include survey of the other 'project' sites in Collaton St Mary as required and therefore fails to meet the test of the 'in combination' effect that would result. As a consequence, the 'mitigation' proposals do not take properly into account the 'mitigation' requirement resulting from the 'in-combination' effect of the other 'project' sites contrary to the requirement of Local Plan Policy SS2 (Future Growth Areas - SDP3.3 Totnes Road/Collaton St Mary) which expressly requires a 'bespoke Greater Horseshoe Bat mitigation plan for all development within the area to be submitted and approved before planning permission will be granted. As the assessment is incomplete, it conflicts also with Local Plan Policy NC1 (Biodiversity and geodiversity), and Policy PNP1 (Area wide) of the approved Paignton Neighbourhood Plan which expressly states at (f) that development will not be supported that would result in an adverse impact on a European protected site.
- iv. Impact on drainage and flooding: The application fails to demonstrate sufficient regard has been given to flash flooding that occurs in the lower area south west of the site which results in ground water and surface water entering the water course breaching its banks and combining with foul water to the detriment of the area. This occurred even during the dry summer of 2018. As determined by the Supreme Court in December 2009, where such situations exist, they need to be examined and resolved at the planning application stage, not by the assumption that they can be deferred to the consideration of the relevant utility provider. Inadequate information has been provided that demonstrates the proposed SUDS soakaway solution and subsequent system management arrangement meet the requirement of Local Plan Policy ER1/ER2 (Flood Risk and water management) and Policy W5 (Waste water disposal) of the adopted Local Plan and Policy PNP1 (Area wide – f) of the approved Paignton Neighbourhood Plan which

- expressly states the information is required when such applications are first submitted and will not be dealt with subsequently by conditions.
- v. Lack of job provision: Support for further housing provision in the adopted Local Plan between 2012 and 2030 is subject to the accompanying strategic policy of securing a net increase in the number of jobs in the Bay of at least 275-300 per annum. Since the adopted Local Plan commencement date of 2012, there has been no increase in the net number of jobs in Torbay from the base of 59,000 in 2012 as confirmed by the Job Density information published by the Office of National Statistics (ONS). Examination in Public of the Local Plan in 2014 by the Inspector appointed by the Secretary of State concluded that if the net growth in jobs failed to materialise it would be appropriate to reduce the number of additional dwellings proposed. The application submitted will not result in a net increase in the provision of permanent jobs and will add further to the need for jobs to be found outside of Torbay contrary to achieving sustainable development sought by the National Planning Policy Framework (NPPF), adopted Local Plan Policy SS1 (Growth Strategy for a prosperous Torbay) and Policy PNP1 (Area wide (i)) of the approved Neighbourhood Plan.
- vi. In conclusion: There are no benefits or other material considerations in the proposal that either alone or taken together would outweigh the harm that would result. On the contrary, the proposal fails to make provision for a balance of jobs and homes, and provision for sustainable development contrary to the National Planning Policy Framework and key purpose of the adopted Local Plan, Collaton St Mary Masterplan and Paignton Neighbourhood Plan.

Joint Neighbourhood Forums:

A joint response from all 3 Neighbourhood Plan Forums expresses their views as to why they consider there is already a supply of housing land in excess of the NPPF and adopted Local Plan requirement.

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

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

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

Torbay Council Strategic Planning (Policy) - updated:

The Development Plan for the area comprises of the adopted Local Plan and the adopted Paignton Neighbourhood Plan. In addition the Collaton St Mary Masterplan was adopted as SPD in 2016 and is a material consideration, along with the explanatory and justification text in the Local Plan and Paignton Neighbourhood Plan policy documents.

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

The current proposal does appear to be fairly consistent with the adopted Masterplan proposal. It is however noted that the suggested housing layout extends northwards beyond the boundary of the development area indicated in the masterplan area (although still within the overall Future Growth Area). This brings it into conflict with Policies PNP1(a), PNP19, and PNP24(b) of the Neighbourhood Plan. The weight given to this requires a planning judgement about the significance of the additional landscape impact, and incursion into the Rural Character Area (in the PNP). However, in the context of the above the harm would need to be significant and demonstrable in order to justify a refusal.

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

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

With regards to housing supply, we recently published our initial assessment that showed there was currently less than 5 years’ housing supply in Torbay, which does trigger the presumption in favour of sustainable development, particularly against the Local Plan policies. A consultation has been undertaken and a range of responses received. It is not likely that the final outcome will increase the housing supply above 5 years. Officer advice is that the additional protection provided to Neighbourhood Plans by paragraph 14 of the NPPF is not triggered in relation to Paignton, since the

PNP does not contain policies and allocations to meet its identified housing requirement.

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

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

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

Torbay Council Strategic Planning (Transport) - Incorporating the views of the Highway Authority:

The Local Highway Authority do not object to this application. All issues previously raised, principally in relation to highway safety, have been acceptably addressed.

Concerns had previously been raised about the standards which were being met/applied in the case of this proposal. Discussions took place about the use of standards but it has been possible to find a solution which is considered to be acceptable and provide sufficient visibility at the junction to provide a safe access. The upgrade of the zebra crossing (with a history of safety concerns) to a signalised crossing also increases the safety for pedestrians and cyclists in that area.

The forward visibility of vehicles queuing at the signalised junction was the final concern to be overcome. The issue related to vehicles travelling from the east and with those drivers having insufficient visibility of what was estimated to be a maximum queue potential. In order to overcome this issue, given the topography of the area and likelihood of a maximum queue length specifically being met, automated signage has been proposed as a warning to drivers on the approach.

Visibility from the site access to the west is considered acceptable but it was agreed that parking restrictions would be included for the length of the visibility splay. These have not been shown on the submitted plan (Vectos 173135_G_12_B, received 26.11.2019) but it is not necessary to amend the plan, so long as the works are

included within the highways agreement. It will be important that all the works on the plan are secured through a S278 Highway Agreement.

The following comments were raised previously but for completeness have been re-included. In terms of other access to the development, the applicant confirmed that;

- *“We can provide engineering details around the proposed pedestrian link to the west connecting to the village centre and school.*
- *We can widen the footway into the site, creating a footway/cycleway of 3m width on the eastern side of the access (indeed this could pass through the site and onwards to the new connection to the west)”.*

It is considered that these points achieve a sustainable access to the site which is in accordance with the national, local and neighbourhood policies, as well as the corporate objectives of the Council. However, this is not shown on current submitted plans and would be a matter to be included within the detailed application to follow.

Note, one additional access opportunity exists to the far eastern end of the site, to join the footpath network on the northern side of Totnes Road towards Paignton. Options for pedestrian access to this point should be considered going forward.

With regards to the Travel Plan, the TA sets out that it will be submitted to the Council for approval prior to occupation of the development and there is an expectation this will be controlled by condition. However, it will be necessary to be in a position to inform residents of their travel options much sooner and to have a ‘welcome pack’ or similar arrangement available in advance of occupation so that they can make informed decisions. As such I would expect this to be sooner and would recommend the Travel Plan it is submitted with any reserved matters application. The Travel Plan target should be to achieve the levels set out in the Local Plan policy. If agreed at an earlier stage this information can then be provided to prospective buyers to enable them to consider their accessibility options from the outset.

Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD will also apply if the application is approved (to the non-affordable dwellings). In the case of Sustainable transport it is indicated as “trip rate x £171” per dwelling. In this case the trip rate (although questioned by the LHA it was not challenged) is equal to 3.998 (Transport Assessment TRCIS output) per dwelling, multiplied by £171 equals £684 per non affordable dwelling built following any reserved matters or full planning consent. Alternatively the SPD also makes an assumption on a trip rate specific to different sized dwellings. This method could be used but can only be calculated following the detail planning application. This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

Local Plan Policy SS6.2 and SDP3 indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and it is appropriate to divide that amongst the properties proposed, using the numbers as set out in the Adopted Masterplan. In total, the Adopted Masterplan supports approximately 460 homes (£2,174 per

dwelling). That same Adopted Masterplan estimates 70 dwellings on this site. Therefore £152,180 towards the development and implementation of the scheme.

Detailed comments in relation to the site layout will be reserved for any detail application that may arise once a solution to the highway safety has been found. In general though my advice would be for the applicant to consider the Design Guide. Policies in both the Local Plan and Neighbourhood Plan will also be relevant when considering sustainable access and movement around the site, as well as parking and other provisions.

South West Water:

No objection. The impact of the foul flows generated by the development upon the public sewer network have been hydraulically modelled and capacity confirmed to be available.

Supplementary comments regarding concerns on capacity and infrastructure:

"I am pleased to provide comments on the points raised to give reassurance to the LPA, Councillors and residents as to how we will manage our clean and waste water services for new developments.

Prior to 1 April 2018, each new development site would be reviewed on a case by case basis and should there be a need for off-site reinforcement to support the development, the activities would be funded by the individual developments if this was not recognised in the South West Water business plan.

This was formalised with the developer by either using a Section 106 contribution, or in more recent years, via a planning condition. However, the significant change in the Developer Services Charging Arrangements on 1 April 2018 which was brought forward by Ofwat, moved the off-site reinforcement to be funded by the infrastructure charge (authorised by Section 146(2) of the Water Industry Act 1991 which is applied to each new property (or commercial property based on loading) to recover the costs of network reinforcement involving new development.

The infrastructure charge will allow new development to progress without any adverse impact upon the levels of services experienced by our existing customers as a consequence of new development. Our Asset Management Team will be carrying out an evaluation of the waste water assets in Collaton St Mary and this information will allow us to review if there is a need to carry out off-site reinforcement to support the developments in the area. The review will be based on the overall master plan of this area to ensure we look at the holistic view of development in this area.

I trust this provides the clarity required from SWW as to how we will review the area and how this also is to be funded should there be a requirement to reinforce the network to support these developments."

Torbay Council Drainage Engineer:

No objection.

Further to the additional information relating in regard to the surface water drainage design for the above development, it is confirmed that the points raised within my consultation response dated 6th April 2020 have now been answered within the latest information.

As a result there is no objections on drainage grounds to outline planning permission being granted based on the latest submitted drawings and hydraulic modelling.

As this is an outline planning application with the final layout yet to be fixed, a final detailed drainage design that responds to any subsequent revised layout must be submitted as part of any reserved matters.

Historic England:

The application site is surrounded by a number of listed buildings. Historic England's remit is limited to the grade II* listed Parish Church of St Mary and the impact of the development on its setting. The church is located in a small group of buildings to the north of the A 385 and west of the current development site. Due to the location of the development and the retention of the green buffers within the proposed layout, we do not wish to comment on this aspect of the proposal in any specific detail.

As a note there are a number of other designated assets that do not fall within our remit and that will require assessment by the council in determining the application. As the decision maker, you should assess the potential impact of the development on the significance of the heritage asset including any significance derived from its setting. Advice from your conservation specialists and archaeological advisors should allow the potential level of impact to be established and whether this will result in harm. This harm will need to be considered within the planning balance.

Torbay Council Interim Heritage Advisor:

The site itself does not contain any designated heritage assets, nor in my opinion does it contain any obvious non-designated heritage assets. However, in the wider vicinity of the site there are a number of designated and potentially non-designated assets and as such consideration should be given to the setting of these assets, in so far as there is no evident impact upon the fabric of these assets. For the avoidance of doubt my observations do not address the archaeology (if any) of the site, but focuses on the legislative considerations of the Planning (Listed Buildings and Conservation Areas) Act 1990, Section 16 of the NPPF and policies HE1 and SS10 of the Torbay Local Plan, and associated Neighbourhood Plan heritage considerations.

The closest designated heritage asset is the listed buildings at Collation Farmhouse and associated farmyard, which are located to the south of the site, on the opposite side of the Totnes Road. The listing citation, the farmhouse is believed to have been built in the mid-19th century in a simplified Tudor style, and exhibits features such as mullioned windows and an original white marble chimney surround. The planned farmyard also dates to the mid-19th century and, as with the farmhouse, is built in local red Breccia rubble. In terms of the setting of these building this is now very much influenced by main road and what is largely now a semi urban character. Whilst the proposed scheme will involve a new access in reasonably close proximity to the farmhouse there is already a zebra crossing and street lighting and hence the general settings character will not be harmed. It will be desirable to ensure that the application

site frontage where it adjoins the main road retains a good degree of planting to help provide a softer setting to the listed building acknowledging that it would have once had a more rural setting than that which currently exists. The applicant's heritage report reasonably assesses the setting considerations and I do not dispute the conclusions of this report.

There are 6 listed buildings which form a cluster of buildings to the west of the site, including the Grade II* listed Parish Church of St. Mary, located to the west of the site. In my opinion these buildings are sufficiently divorced from the new development and I note that a good buffer area is proposed between the listed buildings and the proposed housing. Existing trees and hedgerow provide a good degree of visual containment. In conclusion the setting of these buildings will not be harmed. It will be important to ensure that any subsequent landscaping scheme considers the setting of these listed buildings and is designed to maintain the soft buffer between the listed buildings and new development. Care should also be taken to ensure that the design of the footpath links avoid a hard urban appearance. Again the applicant's heritage report reasonably assesses the setting considerations and I do not dispute the conclusions of this report.

The applicant's heritage report considers the setting on listed buildings further from the site and I consider that the conclusions are appropriate. No impacts are identified in terms of non-designated heritage impacts.

Archaeological Advisor:

Parts of the site are considered to have a higher archaeological potential than is suggested in the submitted documents. These areas are currently identified as public open space or retained for agricultural use. Should these areas come forward for expansion of the development area in the future then I would recommend pre-application assessment and evaluation through a staged programme of work commencing with archaeological geophysical survey.

Ecology Advisor:

The key ecological issues considered to be relevant to the determination of this application relate to the use of the site by foraging/commuting bats (including greater horseshoe), cirl bunting, badgers (with two main badger setts recorded within the application area), notable invertebrates (brown hairstreak and great green bush cricket) and an exceptional population of slow worm.

General ecology

The ecology report indicates potential effects during construction on the slow worm population, foraging and commuting bats including greater horseshoes, foraging badgers, nesting birds and habitats used by hedgehog, brown hare and common amphibians. The cirl bunting territories were recorded outside the construction area and will not be directly affected by loss of habitat. Any potential disturbance effects in the east of the construction area will be mitigated as set out in the ecology report. The main badger setts are not located within the proposed construction area and the ecology report details the mitigation measures proposed to ensure that these setts are retained and protected during construction. Pre-construction surveys are proposed to record any changes in outlier sett locations and inform a Natural England licence to close any setts within the construction zone. Mitigation measures have been proposed

to ensure legal compliance with regards to the risks relating to breeding birds, amphibians and reptiles.

The ecology report has identified the potential for positive effects on ecology during the operational phase of the development. This is broadly associated with the management of the retained habitat to increase the diversity and value to birds, bats, reptiles, badgers and hedgehogs. The key potential adverse effect associated with operation is associated with the increased light levels, however the measures to reduce light spill and maintain dark corridors is considered to be effective mitigation.

South Hams SAC / Habitat Regulations Assessment (HRA)

A HRA (Stages 1 and 2) has been completed on behalf of Torbay Council to fulfil the requirement of regulation 63 of the Conservation of Habitats and Species Regulations 2017. The HRA concluded that in view of the application, there is not likely to be any significant effect on the South Hams or Lyme Bay and Torbay Special Areas of Conservation (SAC) alone or in combination with other proposals or projects, subject to mitigation measures.

The mitigation measures included within the EclA and Shadow HRA reports are to be secured through the implementation of the provided Construction Ecological Management Plan (CEcoMP) and the Landscape Environmental Management Plan (LEMP). The following bat mitigation proposals for the development are stated in the Shadow HRA:

During construction

- Tree and retained hedgerow protection during construction. Contractor's compounds and associated parking and storage areas would be at least 10m away from hedgerows, trees and woodland edge.
- Lighting would be turned off overnight throughout the construction period. Any security lighting would be low-level and motion activated on short-timers.
- An Ecological Clerk of Works would be appointed to oversee all ecological mitigation and enhancement delivery during pre-construction and construction phases.

During operation

- The development design is such that landscape connectivity important for greater horseshoe bats has been maintained.
- A maximum lux level of 0.5lux at 10m from the face of the key western, northern and eastern commuting and foraging corridors would be achieved as shown in shadow HRA Figure 4. A 0.5 lux level of lighting is generally accepted as providing a 'dark' environment, which would not deter light-sensitive bat species, and is based on studies investigating the effects of lighting on the lesser horseshoe bat (Stone *et al.*, 2009).
- The positioning of residential units and roads, along with the locations of proposed hedgerow, woodland and scrub planting would ensure that lighting from internal sources and car headlights would not significantly increase light spill onto the key GHS habitat.
- A bespoke greater horseshoe bat roost will be created within the mitigation area. The detailed design of the bat roost would be confirmed in conjunction with the first Reserved Matters Application for the site and would be delivered in the first phase of construction.

- The eastern half of the site (approximately 6.55ha) would be retained as cattle-grazed pasture with habitat enhancement targeted at greater horseshoe bats under a specific agricultural management regime. The management prescriptions to enhance the foraging habitat within the greater horseshoe bat mitigation area has already been agreed between the landowner, tenant farmer and Bloor Homes. This would be funded via a management fee from homeowners, and its implementation could be secured through the Section 106 Agreement.
- Approximately 7.53ha of the site would be Green Infrastructure, consisting of Public Open Space with meadow, tree (including orchard) and scrub planting; allotments; amenity areas and drainage features. This area is also likely to provide foraging opportunities for greater horseshoe bat.

Monitoring (detailed within section 4.5 of the shadow HRA (EAD Ecology 2019))

- Post-construction monitoring would be undertaken on key habitat features of importance to GHS bats. Measurements of pre-construction light levels would be collected at points on the edge of these habitats to provide a baseline for post-construction monitoring.
- Lux level measurements would be undertaken in Years 1, 3, 5 and 10 following completion of the development to ensure that 0.5lux levels and below are still being achieved.
- Automated bat activity monitoring to be undertaken in Years 1, 2, 5 and 10, would be undertaken at the same static detector positions as the baseline surveys in May, July and September. A GHS bat monitoring strategy would be included in the LEMP, and all results of all monitoring would be submitted to Torbay Council.
- The proposed bespoke GHS roost would be monitored by a licensed bat ecologist in Years 2, 4 and 10 following its construction. Monitoring would consist of internal inspections of the roof void to search for evidence of use by GHS i.e. presence of GHS and/or droppings/feeding remains.

Additional measures to secure the proposed mitigation in light of comment from Natural England shall be required and take the form of the proposed planning conditions. These shall include a CEcoMP and LEMP which shall include relevant sections with regard to habitat phasing, hedgerow management, detailed roost design and clear illustration of how the measures shall be managed “in perpetuity”.

Recommended conditions (HRA)

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

Conclusions

There is no reason for refusal of this planning application on ecological grounds provided the proposals within the ecology report are implemented and maintained. This includes provision of a biodiversity metric calculation, CEcoMP, LEMP, greater

horseshoe bat mitigation area management plan, the appointment of an Ecological Clerk of Works, a detailed lighting strategy and appropriate post-construction monitoring. It is recommended that these measures are secured via appropriately worded planning conditions when this application is determined.

Natural England:

No Objection.

Comment regarding protected species/sites

Having reviewed the Council's HRA/AA Natural England has no objection, subject to appropriate mitigation as identified being secured to ensure no adverse effect on the integrity of South Hams Special Area of Conservation (SAC). In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- All mitigation and enhancement measures to address potential impacts upon greater horseshoe bats associated with the South Hams SAC.
- In addition, the delivery of further mitigation measures to ensure that the proposals are sufficiently robust.

It is advised that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's advice on other natural environment issues is set out as follows:

Comment regarding biodiversity net gain

In the Chancellor's 2019 Spring Statement, the government announced that it "will Mandate net gains for biodiversity on new developments in England to deliver an overall increase in biodiversity". Accordingly and to future proof the proposed development, we advise that the proposals are reviewed in light of this commitment towards the delivery of biodiversity net gain. It would be useful to demonstrate the delivery of biodiversity net gain, with the use of a recognised biodiversity metric mechanism. To assist, we suggest further opportunities to deliver biodiversity enhancements for consideration:

- Extend the native scrub, tree planting, and species rich grassland seed to the Greater Horseshoe Mitigation Area.
- Creation of further hedgebanks in Greater Horseshoe Mitigation Area to create smaller fields, utilising soil from construction excavation.

RSPB:

The RSPB are not convinced that the proposals will deliver a net gain for circl buntings. While supportive of proposals that will enhance the GHS (and other retained and created habitats) for greater horseshoe bats, some aspects of this, eg, extent and density of tree planting (yet to be clarified), will not benefit circl buntings and could result in a net loss of habitat suitable for them. The RSPB remain of the view that compensation for one (a 3rd) circl bunting territory is appropriate and that is the recommendation. However, if your authority decides to grant permission without this provision, we recommend that post construction monitoring should include a timetable of circl bunting survey with the proviso that if such monitoring determined a reduction

in cirl bunting territories on site (and we consider there are 3 likely present and using habitat on the site), compensation is provided.

Update comments following points raised by the agent:

RSPB site-specific survey for cirl buntings are to establish the presence of breeding (or wintering) birds. They are not sufficiently detailed to determine exactly what areas of habitat cirl buntings are or are not using, so it cannot be concluded from the surveys that cirl buntings do not use any of the potentially suitable habitat that will be lost to built development. Interpretation of survey findings is subjective, but in our view the number and location of registrations suggests it is more likely that 3 not 2 territories were identified during survey.

In our view, the degree of uncertainty over the degree of proposed new tree planting, in the POS and in the GHS mitigation area, and absence of a detailed LEMP to know how the retained and created habitats outside the proposed GHS will be managed, together with the lack of certainty over long term funding for management of the GHS, support our view that, to be certain that the proposed development will not have an adverse impact on cirl buntings, compensation provision should be provided for one territory. Such compensation would be need to be secured via a s106 agreement, needs to be agreed at outline stage. Currently we do not have the benefit of the details of planting, management and management responsibility that we understand are to be confirmed via conditions on any permission (i.e. after grant of this application) and are not then likely to come forward until a reserved matters application is submitted.

Torbay Development Agency Affordable Housing Team:

The affordable housing policy requirement on this site is that 30% of the homes developed should be affordable and as a result we will expect to see 30 of the 100 homes as affordable housing including 2 wheelchair adapted units. As with all new developments we would anticipate that the mix on bedroom numbers is proportionate to the mix as a whole and rather than the affordable housing being designed in one location for them to be pepper potted throughout the scheme.

With over 1000 households on the waiting list for affordable housing in Torbay the above site will have a positive impact on providing much needed accommodation and providing the above points are taken into consideration and subject to a satisfactory S106 going forward housing services would be supportive of the application.

Torbay Development Agency Schools Capital and Planning Officer:

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

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

Torbay Council Community Safety Team:

No objection to this application being approved. Would suggest the inclusion of a condition requiring the submission of a construction management plan for the approval of the local planning authority prior to development commencing. This should have

particular reference to the control of dust and noise. A contaminated land report is not necessary.

Police Designing Out Crime Officer:

It is appreciated that the application is for outline planning permission with all matters reserved except for access, as such detail is too limited to enable a full response at this time but please find the following initial advice and recommendations from a designing out crime, fear of crime and disorder perspective to be considered for any future reserved matters.

Torbay Council Natural Environment Services Team:

Due to the vicinity of the development site to a new Country Park at Westerland Valley and the access opportunities that the Country Park will offer to the new residents it would be good if the development could open up and manage a new footpath and access point to the Country Park (as shown in the Collaton St Mary Masterplan) and put in associated footpath signage. If a financial contribution could be sought to support access improvement within the Country Park and an ongoing contribution sought from the development to support maintenance/upkeep within the Country Park this would help ensure the long term management of this new greenspace. It is important to flag up connectivity between this development and the proposed new developments to the south and facilitating access from these developments to the new Country Park.

There is currently limited play provision within the area and we would like to create new play facilities at Westerland Valley, whether this is through more informal play structures (natural play) or creating opportunities for children on scooters/balance bikes. Could a financial contribution could be sought for some new play facilities at Westerland and an allowance for maintenance.

We support that the development is providing Green Infrastructure onsite but I would like to see further enhancement of the wider GI network. We would like to establish opportunities within the Greenspace contribution/CIL for this development to support wider enhancement of the Country Park through mechanisms such as Interpretation onsite, signage and engagement with the community through the contribution towards a new Park Ranger.

There are allotments shown on the landscape plan – who will be responsible for the ongoing management of them? We are looking to create a new community orchard within Westerland Valley so it would be good to establish whether there are opportunities to further enhance the local food provision through this development.

I have seen in the comments from the RSPB that there is the need to deliver offsite compensation for one cirl bunting territory and that this contribution will come to Torbay Council to pool with other contributions. There is potential to look strategically within Westerland Valley at opportunities to deliver an offsite cirl bunting reserve, which is better connected to other cirl bunting sites within Collaton St Mary. This reserve if secured and managed in perpetuity will greatly support the local cirl bunting population, which are under increasing threat from loss of suitable habitat through development and fragmentation of farmland.

We support the provision of the Greater Horseshoe Bat Mitigation area and the enhancement to hedgerows through the development but would like to highlight the requirement for that land to be managed for conservation in perpetuity and the viability of that mitigation not to be compromised by further development. This mitigation area will support the creation of a connected wildlife rich network at Westerland Valley and if there are opportunities through s106 to strengthen the Greater Horseshoe Bat strategic flyway and commuting route that is identified in the Collaton St Mary Masterplan through tree planting and double hedgerows that would be great. There is also potential to create further bat roosts up through the Westerland Valley.

Environment Agency: No comment supplied.

Devon Wildlife Trust: No comment supplied.

Key Issues/Material Considerations

Planning Officer Assessment

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

1. Principle of Residential Development

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

The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016) for the Collaton St Mary area. The adopted Masterplan identifies the lower slopes adjacent to the Totnes Road (and to the west of Borough Park Road) as a potential site for housing that is expected (through the illustrative detail and text) to bring forward approximately 70 dwellings across an area of 3.7

hectares, at around 20 dwellings per hectare. The proposed development is broadly aligned with these principles of the Masterplan in terms of location, i.e. infilling across the site from Borough Park Road, and also in terms of the potential density of development. There is however a variance in that it presents an expectation to provide development over a slightly larger site area of 4.4 hectares, which spreads approximately 25-30 metres further northwards into the site than identified within the Masterplan. The impact of this variance will be discussed within subsequent sections of this report however it does not alter the broad conformity with the general principles of the Masterplan, of housing on the lower slopes of the site at a low density.

In regard to other matters of principle the Paignton Neighbourhood Plan does not identify housing sites. However, Policy PNP24 (*Collaton St Mary Village*) does outline that any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted Masterplan for the area. As the application site is identified as a potential site for housing within the adopted Masterplan the Neighbourhood Plan is considered to support the principle of housing development on this site. It should be noted that aside from the aforementioned slight divergence from the Masterplan in terms of the spread northwards there is a deviation from the Masterplans illustrative text in that the access point is proposed off Totnes Road rather than Borough Park Road. In regard to the principle of utilising a different access point to that shown within the adopted Masterplan, such an access should be considered on its own merits in terms of highway safety and its broader strategic merit. It should not be discounted solely on the notion that it doesn't accord with the Masterplan unless, as just detailed, there are sound functional planning reasons to do so.

In relation to the proposed housing number it is important to note that the layout and number shown on the Masterplan should be considered as being indicative only, as the adopted Masterplan layouts are all somewhat schematic. Hence the Masterplans number should not be taken as a ceiling on the number of dwellings that can be achieved, certainly in light of the government's clear agenda to boost housing supply and guidance on support for development that makes efficient use of land.

As a final point of principle, it is clear that there is the potential for some form of conflict with Policy PNP19 (*Rural Character Areas*) of the Paignton Neighbourhood Plan should a future reserved matters application present dwellings within the designated rural area, as currently shown within the submitted indicative masterplan. However, it is important to note that Policy PNP19 does not expressly preclude development, but seeks development that does not damage its quality and the relationship between urban and rural areas. There is hence clearly an expectation for some development to be delivered within the designated Rural Character Area generally. In this instance it is considered, if a future reserved matters application presents development within the Rural Character Area to a level loosely aligned with the indicative layout and section detail currently submitted, that any impact upon the character of the wider area is unlikely to be demonstrably adverse, as a substantial rural backdrop would still be visibly present from key public views. The likely impact of development character is touched on in Section 5 below but would ultimately be considered more robustly considered at reserved matters stage.

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

2. Access and Highway Safety

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

Para. 109 of the Framework confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TA2 of the Local Plan states that all development should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided.

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

The Paignton Neighbourhood Forum objects to the access on the basis that the adopted Collaton St Mary Masterplan shows no access onto Totnes Road and Policy PNP24 (Collaton St Mary Village) of the Paignton Neighbourhood Plan expressly requires proposals to be in accordance with the adopted Masterplan for the area. It is noted that the masterplan cites "*vehicular access is proposed via Borough Park Road. Direct access onto the Totnes Road is not deemed to be appropriate due to the unsuitability of the junctions with the Totnes Road*". The Forum's view is that this suggests that an access onto Totnes Road was considered but discounted through the master-planning process. Notwithstanding the position of the Forum it is advised that if a safe and suitable access can be shown to be achievable it should not be discounted solely on the grounds of discordance with the expectations of the Masterplan, unless there are sound highway safety or strategic planning reasons to support such a rejection. The merit of the proposed Totnes Road access is considered in detail below.

Following the receipt of revised plans the proposal is to provide a junction with a 6m wide carriageway into the site just east of the existing zebra crossing on the Totnes Road. There is no dedicated right hand turn lane into the site, which is informed by the supporting data that suggested that there is no capacity requirement for one. The Highway Authority agree with this position. There are proposed works to the highway in support of the junction which include the removal of the existing zebra crossing and

its replacement to the east of the new access with a light controlled pedestrian crossing. There are also plans for anti-skid surfacing either side of the crossing, which is extended in length on the outbound approach towards the brow of the hill. The applicant has also, through revised plans, included the provision of an automated warning sign at the brow of the hill to the east, which would be linked to the light-controlled crossing, in order to warn outward bound traffic of potential queuing traffic over the hill.

The proposed junction design is considered to secure adequate visibility for the class of road and the light controlled junction is considered suitably designed in light that it replaces a zebra crossing with impaired visibility. The forward visibility for outbound traffic approaching from the east over the brow of the hill is slightly below Torbay's design standard but exceeds a national standard in terms of Design for Streets. In the circumstance the use of a 'smart' sign to warn approaching vehicles of potential queuing traffic is considered to present a satisfactory solution considering the locality constrains further improvement, and there being a small difference between the forward visibility achieved and Torbay's standard, suggesting it is unlikely to significantly increase the risk of collisions. All matters considered the proposed access is considered suitable and safe and hence in accordance with local and national policy guidance.

In terms of broader movement objectives, the indicative proposals suggest the introduction of pedestrian/cycle connections to the east and west. Pedestrian and cycle permeability is welcomed and a future reserved matters application should include these aspirations. Public access to the public open space and publically available connections further to the north towards the identified country park (Westerland) should also be duly considered and secured by planning conditions and obligations as necessary.

In terms of future considerations, should the proposal be granted planning permission, it is recommended that internal roads are built to the standards outlined within the Torbay Highway Design Guide to ensure that they have the potential to be adopted by the Local Highway Authority. Ultimately further scrutiny will be given to the internal layout at reserved matters stage.

Local Plan Policy SS6.2 and SDP3 indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and hence a proportionate obligation of £152,180 towards the development and implementation of the scheme should be secured via a legal agreement. In addition Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD also suggests a sustainable transport obligation should be secured (indicated as an obligation of £684 per non affordable dwelling built). The precise amount would be established at reserved matters stage however the current detail suggests this is likely to secure funding of circa £47,880 for sustainable transport improvements in the area, towards the strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

Finally in regard to the principle of providing the access off the Totnes Road rather than off Borough Park Road (as indicated within the adopted Masterplan) it is considered that there is no strategic merit for one route of access over the other. Hence in the absence of a strategic reason to seek to utilise Borough Park Road as the access point the proposed access should be determined on its own merit in terms of the layout and the safety of the junction and, as concluded above, the proposed junction is considered acceptable by the Highway Authority.

Considering the points above and having regard to guidance contained within the NPPF, which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is (subject to securing the identified matters) considered acceptable on highway and movements grounds, and in accordance with the Policies TA1 and TA2 of the Local Plan, and in broad accordance with the Paignton Neighbourhood Plan and the NPPF.

3. Drainage and Flood Risk

National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 163). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 165).

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, which is aligned with guidance contained within the NPPF. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers.

The Paignton Neighbourhood Plan has two key policies relating to drainage and flood risk. Policy PNP1 (Area Wide) Section (i) *Surface Water* cites that developments will be required to comply with all relevant drainage and flood risk policy. It furthers that proposals which achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source are encouraged. PNP24 (Collaton St Mary) cites that foul and surface water disposal have become a significant problem in the area and furthers that residential development proposals where appropriate will be required to demonstrate (i) that sufficient capacity exists to accommodate the additional development and not cause any risk of flooding to existing properties, and (ii) there is infrastructure in place to provide for, and service, such growth and development.

In terms of context the site sits in an area with a low risk (Flood Zone 1) of flooding, however it does sit within the Critical Drainage Area that covers most of Torbay, as designated by the Environment Agency. It should also be noted that, although not

within the site, there is a linear area of heightened flood risk to the south that follows the valley floor from west to east.

The Paignton Neighbourhood Forum have raised an objection on the grounds of flooding and there is also a notable degree of local concern on the matter raised through numerous representations. The Forum is concerned that the application fails to demonstrate sufficient regard has been given to flash flooding that occurs south of the site that they link to ground water and surface water entering the water course and combining with foul water to the detriment of the area. The Forum's concern includes that they believe inadequate information has been provided to demonstrate that the proposed SUDS soakaway solution and subsequent system management arrangement meet the requirement of the Local Plan and the Paignton Neighbourhood Plan, where the latter expressly states the information is required when such applications are first submitted and will not be dealt with subsequently by conditions. The Forum also cite a Supreme Court decision in 2009 that determined that where such situations exist they need to be examined and resolved at the planning application stage, not by the assumption that they can be deferred to the consideration of the relevant utility provider.

The application is accompanied by a detailed flood risk assessment and outline drainage strategy which identifies that surface water run-off from the development will be drained via infiltration drainage in the form of soakaways. There is also a utilities plan that illustrates that foul waters will be connected to the Public Sewer that runs along the Totnes Road, connected at a point adjacent to the proposed access.

In regard to surface water management additional design work has been undertaken by the applicant and recently supplementary detail to support the applications design strategy of utilising soakaways to sustainably manage surface water runoff has been submitted. The Council's drainage engineer has considered this additional detail and no longer objects to the application as it is considered that the proposal now demonstrably evidences that the development would not increase the risk of flooding to land or buildings adjacent.

In regard to foul water the application details a connection to the public sewer system on the Totnes Road at the point of the proposed access. South West Water (SWW), who are the statutory undertakers that manage the public sewer system, have considered the proposal and confirmed that they do not object to planning permission being granted. It is noted that SWW also confirmed that the impact of the foul flows generated by the development upon the public sewer network have been hydraulically modelled and capacity confirmed to be available.

Based on the above comments there is no objection to outline planning permission being granted for the development subject to a condition requiring the developer to submit their final drainage design for approval once the reserved matters sets the detailed design parameters. The proposal is, for the reasons above, considered to be in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, and in accordance with the Paignton Neighbourhood Plan, and advice contained within the NPPF.

Notwithstanding the clarity of the conclusions above due to the level of current and

previous concern by local residents and Members, additional information has been sought from SWW as the statutory undertaker who manage the public sewer system, in terms of how they seek to manage capacity and deal with growth. Following this request for further information SWW has outlined that there has been a 'model shift' in how they operate following significant change in 2018 brought forward by Ofwat (The Water Services Regulation Authority), and they now no longer rely on the planning system to secure funding for changing needs in capacity. They confirmed that where they previously engaged with the planning process on a case-by-case assessment and sought necessary funding via conditions or S106 legal agreements, they now operate a model that is detached from and does not rely on the planning system. The 'new' system now secures infrastructure funding through developer connections charges (and strategic delivery plans), which they cite should allow new development to progress without any adverse impact upon the levels of service experienced by existing customers as a consequence of new development. The 'new' model of management outlined by SWW and summarised above clearly outlines that SWW no longer rely on the planning system to deliver necessary infrastructure and hence there would appear no sound planning reason not to support the proposal on flood risk and drainage grounds, where there is support from the Lead Local Flood Authority in terms of surface water and the statutory undertaker in terms of foul water.

As an anecdotal note SWW have confirmed that their Asset Management Team will be carrying out an evaluation of the waste water assets in Collaton St Mary and this information will allow them to review if there is a need to carry out off-site reinforcement to support the developments in the area. They confirmed that this review will be based on the overall master plan of this area to ensure we look at the holistic view of development in this area.

4. Ecology & Biodiversity

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

Policy PNP1 (Area Wide) of the Paignton Neighbourhood Plan states that development will not be supported where the development proposal would result in an adverse impact on a European protected site and Policy PNP1 (c) *Design Principles* includes a number of aspirations for development to secure, where possible and appropriate to the scale and size of development. PNP1 (c) includes reference to safeguarding biodiversity and geodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites, and ensure that features of geodiversity value are protected and wherever possible enhanced in their condition and future management. The policy furthers that hedgerow habitat should be provided on at least one development boundary wherever possible, and that bat and bird boxes should be featured.

In terms of ecology, the key ecological issues relevant to the determination of this application relate to the use of the site by foraging/commuting bats (including the Greater Horseshoe Bat), cirl buntings, badgers (with two main badger setts recorded within the application area), notable invertebrates (brown hairstreak and great green bush cricket) and slow worms.

The Paignton Neighbourhood Forum have within their objection advised the submitted mitigation proposals do not take properly into account the mitigation requirement resulting from the in-combination effect of other sites, contrary to the requirement within the Local Plan, which expressly requires a bespoke Greater Horseshoe Bat mitigation plan for all development within the area to be submitted and approved before planning permission will be granted. The Forum cite the proposal therefore conflicts also with Policy PNP1 of the Paignton Neighbourhood Plan which makes clear development will not be supported that would result in an adverse impact on a European protected site.

The application is supported by an ecological impact assessment and a shadow Habitat Regulations Assessment (HRA) which seeks to address the European protected site. These documents have been reviewed by the Council's ecological advisor and Natural England and the RSPB have also provided detailed comments on the development proposals and its associated ecological issues. Natural England have also provided secondary comments on the Council's own HRA. The summary conclusions on the ecological merit of the development proposals are detailed below.

Firstly in regard to the considerations associated with the South Hams Special Area of Conservation (Greater Horseshoe Bat) the Council's ecological advisor has considered the 'shadow' HRA submitted by the applicant and has undertaken a formal HRA and Appropriate Assessment (AA). The Council's HRA/AA concluded that with mitigation there would be no '*likely significant effect*' alone or in combination with other proposals or projects on the South Hams SAC. Natural England have been re-consulted and have provided detailed comment on the Council's HRA/AA, including its conclusions and proposed mitigation measures (conditions). Natural England have advised that they concur with the Council's conclusions of there being no '*likely significant effect*', providing that all mitigation measures are appropriately secured in any permission given. Notwithstanding the Forums concerns the matter is therefore considered to be positively concluded in terms of ensuring no adverse impact on a European protected site. As a note the HRA/AA also concluded on the Lyme Bay and Torbay SAC and found there to be no likely significant effect.

In regard to broader ecology matters the cirl bunting territories were recorded outside the construction area and it was concluded that they would not be directly affected by loss of habitat, with any potential disturbance effects in the east of the construction area will be mitigated as set out in the submitted ecology report. Notwithstanding the conclusions of the submitted ecology report and the Council's own advice the RSPB recommend that financial compensation is provided for a 3rd pair of cirl buntings, to secure off-site mitigation land. The applicant has indicated that they are happy to defer to this request, notwithstanding the conclusions of their own ecologists and provide a financial mitigation for off-site cirl bunting habitat as requested.

In regard to badgers the main badger setts are not located within the proposed construction area and the submitted ecology report details the mitigation measures proposed to ensure that these setts are retained and protected during construction.

Pre-construction surveys are proposed to record any changes in outlier sett locations and inform a Natural England licence to close any setts within the construction zone.

Mitigation measures have also been proposed to ensure legal compliance with regards to the risks relating to breeding birds, amphibians and reptiles, which can be secured by appropriate planning conditions.

Submitted detail further identifies the potential for positive effects on ecology during the operational phase of the development. This is broadly associated with the management of the retained habitat to increase the diversity and value to birds, bats, reptiles, badgers and hedgehogs, which is supported.

In-line with advice from Natural England, the RSPB and the Council's ecology advisor, the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of policies within the Local Plan and Paignton Neighbourhood Plan, and advice contained within the NPPF. There is considered to be no reason for refusal of this planning application on ecological grounds provided the proposals within the submitted ecology report are implemented and maintained. This includes provision of a biodiversity metric calculation, Construction Ecological Management Plan, Landscape and Ecological Management Plan, greater horseshoe bat mitigation area management plan, the appointment of an Ecological Clerk of Works, a detailed lighting strategy and appropriate post-construction monitoring. It is recommended that these measures are secured via appropriately worded planning conditions should the application be positively determined.

5. Design and Visual Impact

Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all other matters reserved for future consideration, the submitted information does include an indication of a proposed site layout and detail on the likely character and appearance of the development, offering indicative layout and section drawings together with accompanying written commentary. In regard to this outline application it is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 100 dwellings) could be appropriately achieved in terms of its layout, design and character, without undue visual impact.

Achieving good design is a central thread within government guidance and Part 12 of the NPPF "Achieving well-designed places" offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 offers that that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Thus, if on receipt of an application for approval of reserved matters the Local Planning Authority does not consider the detailed proposals to be of sufficiently high quality they may, at their own

discretion and based on the then submitted detail, decide to issue a refusal on that basis without prejudice to the principle of any outline permission already granted.

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

Consultee comments received from the Paignton Neighbourhood Forum cite a concern that the proposal is an overdevelopment of the site that conflicts with the indicated capacity of 70 dwellings within the adopted Masterplan that was established having regard to the importance of landscape, biodiversity and infrastructure. The Forum cite a concern on the detailed breach of the Development Plan boundary which they state is unjustified and contrary to the adopted Collaton St Mary Masterplan and Policy PNP1 (Area wide), and Policy PNP19 (Rural Character Area) and Policy PNP24 (Collaton St Mary) of the Paignton Neighbourhood Plan. A number of public objections raise similar concerns in terms of the landscape and character impacts, generally citing the scheme as an overdevelopment of the site that would harm the character of the village and wider area. As previously discussed within Section 1 (principle) the policies are not considered to preclude development *per se* and hence proposals should be judged on their broader merit where they sit within the Rural Character Area.

In terms of context the site is identified within the Torbay Landscape Character Assessment as Rolling Farmland (1J The Blagdons) with a broad commentary of there being a distinct unified landscape due to a prevailing agricultural pattern with few detracting elements, but with reference that the landscape value reduces towards the southern end towards the A385 (Totnes Road). The Collaton St Mary Masterplan considers the potential for development and it cites that there is the potential for development on the southern lower slopes of the hill just above the existing Village, as this area is fairly hidden behind existing urban development. The Masterplan furthers that the boundary of development would need to be curtailed and aligned with the adjacent existing development (taken as reference to Borough Park Road to the east) as the upper slopes of the hilltop are more visible and sensitive to change. This commentary aligns with an 'area of reduced landscape and visual sensitivity' being illustrated and a masterplan layout that suggested development maintained below a linear field hedge boundary that runs east-west across from Borough Park Road to the Church approximately 110-140m north of the Totnes Road. Finally in terms of policy context the Paignton Neighbourhood Plan identifies the open countryside (PNP19) with a central aspiration that as it is a finite resource it is important to ensure that any further development does not damage its quality and the relationship with urban and

rural areas. The bulk of the proposed 'developed area' sits to the south of the aforementioned field boundary which shows around 85 of the 100 dwellings delivered within the area not designated as open countryside. This results in the indicative layout showing around 15 dwellings within land identified as open countryside within the Paignton Neighbourhood Plan, within an area loosely 180m wide by 20m-30m deep.

In terms of assessing the design and visual impact as the proposal is in outline the design will principally be scrutinised at reserved matters stage should outline permission be granted. Notwithstanding this basic principles can be considered to determine whether the amount of development is likely to be adequately achieved.

In terms of design the indicative masterplan appears to present sufficient confidence that a suitable residential environment could be achieved. The basic layout suggest perimeter blocks will be achieved which will present properties facing and framing the streets, which is a supported layout proposition. The indicative layout suggests that garden space could be adequately resolved to meet the standard expected within the Development Plan of 55sqm, whilst also reflecting the more spacious character of the rural edge development. In addition the suggested distances between properties are largely in excess of the 20-21m guide for back-to-back relationships plus an allowance for likely level changes, which indicates that the guide distance should be increased to secure suitable levels of privacy. The suggestion of planting within the developed area has the potential to remove or at least soften the few direct sight-lines, which is welcomed in principle. In terms of other matters the indicative masterplan appears to suggest adequate parking could be provided to meet the expected level of 2 spaces per dwelling. Further details will be required as part of a reserved matters submission to enable the precise parking arrangement to be properly scrutinised, but it appears, based on the space available, that an adequate parking arrangement could be provided for the proposed number of units without compromise on other important aspects of the scheme, such as dwelling sizes, the availability of landscaping and amenity space etc.

It is noted that the accompanying Design and Access Statement presents images that suggest a largely open plan design typology to plots, which would appear counter to the prevailing local form and counter to the prevailing rural vernacular within other villages and hamlets within the broader area. Plots appear generally presented with a far more defined sense of enclosure with walls, hedges and occasionally railings prevalent. Boundary treatments are an important contributor to character and it is advised that a future reserved matters should duly consider the local vernacular notwithstanding the currently presented 'indicative detail' in order to deliver development that accords with the adopted masterplan and Policy PNP24 of the Paignton Neighbourhood Plan

All matters considered there appears to be scope to resolve an adequate design outcome for the amount of development sought to present an acceptable residential environment for future occupiers and occupiers of existing properties. Ultimately a detailed layout and residential environment would be considered at the reserved matters stage.

In regard to visual impact although the application seeks outline consent the suggested layout and scale should be duly interrogated to determine the likely visual impact resulting from the amount of development being proposed. Having considered the proposal and the context there is considered to be broad alignment between what is being proposed and the informative landscape assessment, the Torbay Landscape Character Assessment, the adopted Masterplan for the area and the Neighbourhood Plan guidance. In terms of alignment the proposal concentrates development in the southern 'bowl' close to the Totnes Road with land above maintained as a landscape setting for the village, with open space, allotments and agriculture uses, which is a principle that is supported. The key area of divergence, and one touched on by the Forum within their objection and within Section 1 (Principle) above, is that the proposal suggests development may be presented beyond the existing field boundary line that is delineating feature for where development is expected to cease within the Masterplan, which is consistent with the Neighbourhood Plan *open countryside* designation of fields to the north whilst excluding fields to the south of this feature. The policy position around this and the likely visual impact is hence central within the consideration of the scheme, which is summarised in some detail below.

The application is supported by landscape and visual impact assessment and this concludes that the landscape character of the site as being medium to medium/high quality, which is consistent with the Torbay Landscape Character Assessment. Both assessments principally conclude that the elevated area of the hill is considered to have little capacity to accommodate built development due to its elevated and open character and contribution to the setting of Paignton. The submitted assessment furthers that the lower slopes adjoining existing built up areas are identified as having medium susceptibility to change, as they have some ability to absorb development without a significant change in character, as the land is more enclosed and is currently influenced by the proximity the built-up area of Paignton, which is considered to be a reasonable assumption. The lower slopes is where development is proposed and hence there is broad agreement alignment with the landscape character assessments for the area.

In terms of character the indicative proposal is somewhat suburban in layout and scale but this is not at odds with the adopted Masterplan for the area, which presents a single linear extension somewhat akin to suburban street that is Borough Park Road to the east. The proposal covers a slightly larger area than that indicated within the adopted Masterplan however the layout appears to present certain features that would possibly counter any potential wider impact caused by there being a larger developed area. For example the illustrative layout has the potential to offer a softer and slightly more organic form of development than that illustrated within the adopted Masterplan. For example the perimeter blocks (the groupings of houses) are relatively small and could have the potential to present a more intimate, somewhat semi-rural feel, compared to the single linear arrangement envisaged within the adopted Masterplan. In addition tree planting within the built envelope appears prevalent which, if adequately resolved in a future reserved matters detail, could help break up and soften the development when experience within and from afar. There are also more substantial pockets of tree planting envisaged along the southern border that could well screen the development from the few public views of the lower slopes. Finally it is noted that revised section plans submitted by the applicant have responded to some initial concern from Officers in terms of a potential impact on the wider landscape

character. The section now shows reduced height dwellings at the highest part of the site, in the area which is identified as open countryside within the Paignton Neighbourhood Plan. This treatment of scale would help limit the visual prominence of the 'additional' development that sits beyond the line illustrated within the adopted Masterplan. The section suggests that reduced storey dwellings within the designated open countryside are likely to have a ridge height only 1m higher than dwellings immediately below, which sit within the area of development envisaged by the adopted Masterplan. As public views from the south are principally on lower land these 'additional' dwellings are likely to have a limited visual impact in the wider context of the areas character. Having considered the context the likely visual impact of the development, including importantly the 'additional' proposed development that sits within the designated *open countryside*, it is considered that although it may present a slightly more visible development when viewed from the few public views to the south, the expected impact upon the character of the area is to be considered unlikely to be significant.

Separately in regard to the design and visual impact of the detailed access the junction point sits at the eastern boundary of Collaton St Mary where it transitions to the western outskirts of Paignton. The Character within the area of the proposed junction is quite urban compared to other parts of Collaton St Mary and the access point is unlikely to have detrimental impact upon local character when considering the current street character.

All matters considered based on the indicative information provided the proposed development is for the reasons above considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, H1 and DE1 of the Local Plan, Policies PNP1, PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan, the adopted Collaton St Mary Masterplan, and the NPPF. The outline detail has also been scrutinised in regard to the recently published National Design Guide and the illustrative scheme does not appear to present any obvious conflict with the advice offered within the document.

Members are advised that in the absence of a 5-year housing supply the presumption in favour of sustainable development, the tilted balance, should be applied and hence should Members consider the limited spread into the open countryside to present harm it would need to be significant and demonstrable in order to justify a refusal. As concluded above any likely impact is not considered to be significant and demonstrable.

6. Impact on Heritage Assets

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

The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF

further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

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

In terms of the heritage context for this proposal the site does not contain any designated heritage assets however in the wider vicinity of the site there are a number of designated assets and as such consideration should be given to the setting of these assets.

The closest designated heritage asset is the listed buildings at Collation Farmhouse and associated farmyard, which are located to the south of the site, on the opposite side of the Totnes Road. In terms of the setting of these buildings the surrounds are influenced by the main road and what is largely now a semi urban character. Whilst the proposed scheme will involve a new access in reasonably close proximity to the farmhouse there is already a zebra crossing and street lighting and hence the general settings character will not be harmed. It is considered desirable to ensure that the application site frontage where it adjoins the main road retains a good degree of planting to help provide a softer setting to the listed building acknowledging that it would have once had a more rural setting than that which currently exists. This could reasonably be achieved by due consideration of a future landscaping as part of the reserved matters.

Further afield there are listed buildings which form a cluster of buildings to the west of the site, including the Grade II* listed Parish Church of St. Mary. These buildings are considered to be sufficiently divorced from the development with a substantial buffer of distance, existing development, or existing landscaping between the listed buildings and the proposed development. In terms of the nearby church especially existing trees and hedging is considered to provide a good degree of visual containment. This conclusion is aligned with comments received from Historic England regarding the grade II* church where they stated that due to the location of the development and the retention of the green buffers within the proposed layout, they do not wish to comment on this aspect of the proposal in any specific detail.

All matters considered the setting of these buildings will not be harmed, although it is appreciated that it will be important to ensure that any subsequent landscaping scheme considers the setting of these listed buildings and is designed to maintain the soft buffer between the listed buildings and new development. Care should also be taken to ensure that the design of the footpath links avoid a hard urban appearance, which would be secured through the consideration of the reserved matters.

On balance, with no substantive harm expected by the detailed access or the future development subject to a reserved matters application, when considering the Development Plan and the NPPF, the proposed access arrangements and indicative development in terms of heritage impacts and thus suitable for approval, in accordance with Policy HE1 of the Local Plan and Paragraphs 193, 194 and 196 of the NPPF.

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

7. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1. The NPPF guides that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve (Para 124) and that planning policies and decisions should ensure that developments, amongst a number of things, should create places that promote health and well-being, with a high standard of amenity for existing and future users.

The site borders existing residential properties along the southern border and along part of the eastern border. The impact during and after construction on the amenity afforded these occupiers hence needs to be duly considered. The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. 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. In terms of scale and form this will be established within a future reserved matters application however officers are satisfied that it will be possible to develop the site without having an unacceptable impact on the residential amenity of existing dwellings.

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

8. Other Considerations

Housing Supply

The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan. As stated within

this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate between a 2.5 - 3 year supply, which is a significant shortfall.

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

Sustainability

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

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

The proposal is supported by an energy statement that presents proposed measures by the developer to reduced CO2 emissions, delivered through a combination of utilising passive design measures, well insulated and air tight building fabric and space and water heating provided by high efficiency gas fired boilers with flue gas heat recovery.

Local Finance Considerations

S106:

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

Highway works

In-line with Torbay Local Plan Policy SS6.2 and SDP3 development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. Based on the scale of the development expected within the area and within this

site a proportionate funding level of £152,180 towards the development and implementation of this scheme should be secured.

Affordable Housing

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

Elements of the provision, such as location and mix, to be agreed through the reserved matters stage when the form and layout is progressed beyond the current indicative stage.

Sustainable Transport

In accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to open marking housing only) Sustainable Transport obligations should be secured at a rate of £684 per eligible dwelling (or other alternative method as agreed). This funding would support strategic connectivity from Collaton St Mary to employment and retail areas along the Western Corridor and into Paignton Town Centre.

Greenspace and Recreation

No detailed obligation request or expected level of play provision raised by Natural Environment Services. It is noted that the indicative masterplan includes a play area to provide public play space, together with more informal open space. The Planning Contributions and Affordable Housing SPD indicates a development of this scale should secure a LAP and a LEAP. Parameters for the provision and retention of future public play space, which secures appropriate play space for different ages of children, should be secured, including funding mechanisms or public adoption, and dispute mechanisms, along with the provision and maintenance of the public open space, public access routes and allotments.

Education

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

Lifelong Learning Obligations

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

Waste and Recycling

Obligations in-line with the SPD should be secured to provide waste and recycling facilities for properties that will be served by the Local Authority waste collection provider.

Cirl Bunting Mitigation

Financial mitigation to secure compensatory habitat is secured elsewhere for one curlew territory via a financial contribution to Torbay Council, as set out in the Wildlife and development guidance note: curlew (Devon County Council, Teignbridge District Council and Torbay Council, October 2017).

GHB Mitigation

Delivery and in perpetuity management of the Greater Horseshoe Mitigation Area.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

The application site is within a sustenance zone and landscape connectivity zone associated with the South Hams SAC.

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

Planning Balance

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

It is acknowledged that there are concerns about the potential impact upon setting of the listed church and broader landscape impact. This is an outline application and therefore details of layout, scale, appearance and landscaping for the development will be the subject of future reserved matters applications. Nevertheless sufficient information has been submitted as part of this outline application to demonstrate that the proposed development can take place without significant harm to matters such as heritage, landscape or residential amenity.

Statement on Human Rights and Equalities Issues

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

expressed through third party interests / the Development Plan and Central Government Guidance

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

Proactive Working

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

Conclusions and Reasons for Decision

The site is broadly identified for housing within the Development Plan and the proposal does appear to be fairly consistent with the associated adopted Masterplan for the area and would deliver much needed housing. The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

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

There is a degree of discordance with the Development Plan in terms of likely encroachment into the open countryside, as designated within the Paignton Neighbourhood Plan. However the visual impact of this likely encroachment is not expected to be significant in terms of the wider landscape setting of Collaton St Mary. Therefore notwithstanding this discordance there is, for the reasons stated within this report, a much broader accordance with the Development Plan that Members should consider as part of the balancing exercise. Officers consider the impact of some development within the open countryside does not warrant refusal of the application, due to the much broader accordance with the Development Plan and the material benefit of providing housing where the Council is currently advising of there being a significant shortfall below the 5 year supply expected by government, and where the government has clearly stated it wishes to significantly boost housing delivery.

In-line with the above conclusions and the detail contained within this report the proposals are considered to be in general accordance with the provisions of the Development Plan. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay. In the absence of material considerations that weigh sufficiently against the proposal the Officer recommendation is one of approval, subject to suitable conditions and S106 Legal Agreement.

Officer Recommendation

Approval: Subject to;

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

The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director responsible for Planning, including the addition of any necessary further planning conditions or obligations.

Conditions

Standard time condition:

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

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

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

1. Reserved Matters condition

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

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

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

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

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

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

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

The development shall proceed in accordance with the Lighting Assessment and no additional external lighting shall be provided at any time unless previously agreed in writing by the Local Planning Authority

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

3. Detail of bespoke greater horseshoe bat roost (HRA)

The reserved matters shall include a detailed design of the proposed bat roost. The approved roost shall be delivered in the first phase of construction or in accordance with a timetable agreed in writing with the Local Planning Authority and shall be retained and maintained at all times thereafter.

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

4. Construction Environmental Management Plan – Biodiversity (HRA)

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

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

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

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

5. Landscape and Ecological Management Plan (LEMP) or equivalent (HRA)

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

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) A habitat phasing plan to ensure habitat is established and functional in advance of impacts.
- d) Aims and objectives of management.
- e) Appropriate management options for achieving aims and objectives. Noting the comments from Natural England with regards to preferred hedgerow management options.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- h) Details of the body or organisation responsible for implementation of the plan.
- i) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

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

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

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

6. Ecological monitoring to provide early warning of threats to bat commuting routes (HRA)

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

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);
- c) Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bats' commuting routes can be judged;
- d) Methods for data gathering and analysis (to include appropriate bat surveys and light monitoring);
- e) Location of monitoring/sampling points;

- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Contingencies and remedial measures that will be triggered should monitoring detect a change in site conditions;
- i) Review, and where appropriate, publication of results and outcomes.

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

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

7. Highway 1

No dwelling shall be occupied until all estate roads required for access to that dwelling have been constructed to adoptable standards in accordance with the Torbay Highway Design Guide for New Developments in force at the time of commencement of the development and an agreement has been entered into between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of the estate roads.

Reason: To ensure that the estate roads serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development, in the interests of amenity and highway safety, in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030.

8. Highway 2

Prior to commencement of development a S278 Agreement shall be entered into with the Highway Authority to secure works to the highway to deliver the approved junction and all necessary pedestrian crossing, surface and signage works. The works to the highway shall be delivered in accordance with the Agreement prior to the occupation of any dwelling.

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

9. Flood risk

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

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

10. Affordable Housing

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

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

11. Biodiversity enhancement measures

The reserved matters for layout and landscaping shall include details to ensure that there is no net biodiversity loss as a result of the development. The net biodiversity impact of the development shall be measured in accordance with the DEFRA biodiversity metric 2.0 as applied in the area in which the site is situated at the relevant time and the scheme shall include:

1. Proposals for on-site mitigation (full details of which will be provided in relation to each phase of development in accordance with Condition 4 [CEMP] of these conditions) and/or for off-site offsetting;
2. A methodology for the identification of any receptor site(s) for offsetting measures;
3. The identification of any such receptor site(s);
4. The provision of arrangements to secure the delivery of any offsetting measures (including a timetable for their delivery); and
5. A management and monitoring plan (to include for the provision and maintenance of any offsetting measures in perpetuity).

The written approval of the Local Planning Authority shall not be issued before the arrangements necessary to secure the delivery of any offsetting measures have been executed. The scheme shall be implemented in full accordance with the requirements of the scheme or any variation so approved.

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

12. Construction method statement

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

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

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

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

13. Travel plan

The reserved matters for layout and scale shall include a Travel Plan that seeks to achieve sustainable modes of travel in-line with targets set out in the Local Plan policy. The approved Travel Plan shall be implemented as approved.

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

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

14. Energy

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

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

15. Phasing

A phasing plan shall be submitted to and approved in writing by the Local Planning Authority as part of the first application for reserved matters approval of layout. The plan shall demonstrate how the development will be implemented in relation to an agreed timetable of works, and shall include the provision of play space, open space, and allotments, landscaping and ecological enhancement, amenity footpaths, highway works and other ancillary infrastructure. The development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9,

SS10, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and Policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

16. Pedestrian access routes

The reserved matters for layout and landscaping shall include details of pedestrian links to the Totnes Road to the south, which shall include plan and section drawings at scale 1:20 or larger, together with pedestrian access routes within the Public Open Space and land identified for agriculture to the north of the housing, which shall seek to broadly accord with the public access aspirations outlined within the adopted Collaton St Mary Masterplan. The details shall include plans and sections as necessary and details of any gates or stiles to be provided. The approved details shall be implemented in accordance with the approved detail and phasing pursuant to Condition 15 and maintained for public use at all times thereafter, unless otherwise agreed in writing with the Local Planning Authority.

Reason: To provide appropriate pedestrian connections to Collaton St Mary and to the public open space and countryside to the north, to encourage green infrastructure links and active lifestyles in accordance with Policies SS9 and DE1 of the adopted Torbay Local Plan 2012-2030, PNP24 of the Paignton Neighbourhood Plan, and the NPPF.

17. Play Areas

The reserved matters for layout and landscaping shall include details of local play commensurate to a LAP and a LEAP as detailed within the adopted Planning Contributions and Affordable Housing SPD that details the type and provision of play for a variety of ages of children. The detail shall include appropriate provision of impact absorbing surface treatments, means of enclosures and litter and seating facilities.

The reserved matters shall seek to secure appropriate levels of natural surveillance to all play areas and an appropriate buffer distance from properties to ensure neighbour amenity is not unduly impacted. The approved play areas shall be provided prior to the first occupation of the 50th dwelling or in accordance with the phasing plan submitted to and approved in writing by the Local Planning Authority pursuant to Condition 15 and maintained for public use at all times thereafter.

Reason: To ensure that the development provides a range of physical, social and green infrastructure, including local play spaces, in accordance with Policies SS7, SS9, SS11 and DE1 of the adopted Torbay Local Plan 2012-2030 and Policy PNP24 of the Paignton Neighbourhood Plan.

18. Parking Provision

The reserved matters shall include details for the parking of vehicles for all dwellings. The approved parking facilities shall be provided in full for each dwelling prior to its first occupation and shall be maintained for the purposes of parking at all times thereafter.

Reason: To ensure adequate parking is provided to support an adequate residential environment, protect the amenities of the area and maintain highway safety, in accordance with Policy TA3 of the adopted Torbay Local Plan 2012-2030.

19. Landscape provision and maintenance

All planting, seeding or turfing comprised in the approved details of landscaping reserved matters shall be carried out in the first planting and seeding season following the first occupation of the development unless otherwise agreed in writing with the Local Planning Authority within a phasing plan pursuant to Condition 15. Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, C4 and DE1 of the adopted Torbay Local Plan 2012-2030 and PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

20. Removal of PD – boundary treatments

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in Schedule 2, Part 2, Classes A and B including gates, fences, walls or other means of enclosure and means of access shall be erected or constructed between the buildings and the estate roads unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the character and visual amenities of the locality.

21. Removal of PD – roof extensions and hardstandings

Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes B, C and F of the Order, including the construction of dormers, roof alterations and provision of hardstandings, shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area, to prevent the increased risk of flooding elsewhere and in the interests of amenity.

Development Plan Relevant Policies

- SS1 - Growth Strategy for a prosperous Torbay
- SS2 – Future Growth Areas
- SS3 - Presumption in favour of sustainable dev
- SS8 - Natural Environment
- SS9 – Green infrastructure
- SS10 – Conservation and the historic environment

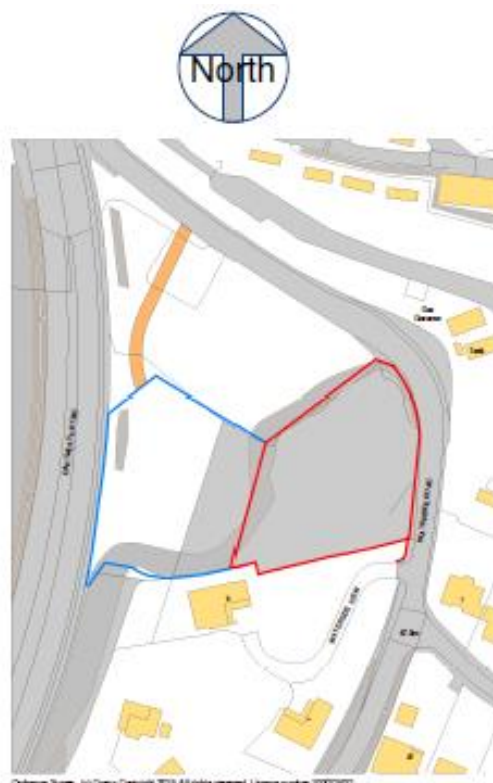
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SDP3 – Paignton North and Western Area
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
H2LFS - Affordable Housing_
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities

PNP1 – Area Wide
PNP1(a) – Rural Character Area
PNP1(c) – Design Principles
PNP1(d) – Residential Development
PNP1(f) – Towards a sustainable low carbon economy
PNP1(g) – Designing out crime
PNP1(h) – Sustainable transport
PNP1(i) – Surface water
PNP19 – Safeguarding the open countryside
PNP24 – Collaton St Mary Village



Application Site Address	Land At Waterside Quarry Waterside Road Paignton TQ4 6LJ
Proposal	Outline consent with all matters reserved for three dwellings
Application Number	P/2019/0520
Applicant	Mr Adam Billings
Agent	Mr James Dawson - JD Architectural Design
Date Application Valid	11/06/2019
Decision Due date	06/08/2019
Extension of Time Date	15/07/2020
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 responsible for Planning, Housing and Climate Emergency
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:



2 Location plan
1: 1250

Site Details

The site is an expanse of land within the upper section of Waterside Quarry that is adjacent to Waterside Road. The site was formerly a limestone quarry and there remains an exposed quarry wall face to the northern and western boundaries. The site is located within the Waterside, Goodrington Urban Landscape Protection Area (ULPA) and is within 250 metres of Saltern Cove SSSI. The exposed quarry face which forms the northern and western boundaries is designated as a Regionally Important Geology Site (RIGS) and County Geological Site (CGS) for its Middle Devonian (Givetian) limestone.

Description of Development

The proposal seeks permission for outline planning permission with all matters reserved for three dwellinghouses. The submitted information includes a Design and Access Statement, a suitably scaled existing site layout, a suitably scaled cross-section of the site, a suitably scaled visibility splay plan which is accompanied by a traffic speed and count survey, and an indicative suitably scaled proposed site layout.

Pre-Application Enquiry

Not applicable.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

P/2019/0617/OA: Three new dwellings with vehicular access. Refused 09/06/2020.

P/2016/0824/PA: Formation of a 2 storey dwelling with parking (revised documents inc revised layout received April 2017). Permission with legal agreement 06/04/2018.

P/2016/0822/RM: Reserved Matters Application for approval of the details for appearance, layout and scale of two no. two storey residential dwellings with associated parking and garages in relation to Outline approval P/2014/0045. (revised documents inc revised layout received April 2017). Permission with legal agreement 16/03/2018.

P/2014/0045/OA: 3 No. Detached dwellings and associated access/parking provision. Approved 23/01/2015.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. 8 neighbour notification letters were sent to those neighbours which officers considered the development could affect or nearby. 40 letters of objection from 24 individuals (a number of objectors commented more than once) and 2 letters of support have been received.

Concerns raised in objection include:

- Overdevelopment
- Not in keeping with the local area
- Impact on local area
- Sets precedent
- Privacy/overlooking
- Designations in Development Plan
- Removal of allocation in Brixham Peninsula Neighbourhood Plan
- Residential amenity
- Traffic and access
- Trees and wildlife

Comments raised in support include:

- Impact on local area
- It provides houses

Summary of Consultation Responses

Brixham Peninsula Neighbourhood Forum:

No response received.

Torbay Council's Highways Engineer (Initial Response):

For more specific details regarding parking, cycle storage, gradients and all other Highway issues, I would recommend the Developer to view The Highways Development Control Standing Advice for Minor Development Applications.

At the junction with Waterside Road the access would be required to have a visibility of 43m x 2.4m x 43m, this is the recommendation for a 30mph road. This distance

could be reduced if the developer carries out speed readings in the immediate vicinity to prove a lower 85th percentile speed.

Future Proposals:

If the number of dwellings that will be served from the access with Waterside Road increase to 5 Dwellings or more in future proposals, Highways would normally require the developer to enter into a Section 38 agreement to bring the road up to an adoptable standard. This would involve a 5.5m shared surface and would have to include a suitable turning area of Highway specification.

If the Developer requests for the road to remain private, this would be a departure from our normal policy.

The lane serving the dwellings would require at least one passing bay due to its width and length. Also checks with the fire service may be required to ensure that a fire appliance could, if required, reach all dwellings and operate effectively.

The Developer would need to check if refuse vehicles would be prepared to pick up at the proposed collection point.

Torbay Council's Highways Engineer (Further Response – 23/06/2020):

After studying the Highway report, Torbay Highways Department would have no objections.

The only one thing is the wing walls at the access should be clear of Landscaping obstructions and the walls ideally kept to 600mm to 800mm high so there is clear visibility when sat in a vehicle exiting the access.

South West Water:

No objection subject to surface water being managed by means of soakaways as proposed.

Torbay Council's Drainage Engineer:

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

Devon County Council's Senior Ecology (Biodiversity):

An Ecological Appraisal, Habitats Regulations Assessment Screening Report and Arboricultural Method Statement and Tree Protection Plan have been submitted with the application. The Local Planning Authority ecologist has completed a detailed Habitats Regulations Assessment of the proposals in relation to South Hams SAC greater horseshoe bats.

Designated sites

The application lies 5.5 km from South Hams Special Area of Conservation (SAC) and is located within the Berry Head South Hams SAC greater horseshoe bat Sustenance Zone. The application site is adjacent to a SAC greater horseshoe bat mitigation features associated with the approval of planning applications P/2016/0822 and P/2016/0824 (controlled lighting and landscaping). The application site is 300m east of Lyme Bay and Torbay SAC. The adjacent exposed quarry face is designated as a Regionally Important Geology Site (RIGS) and County Geological Site (CGS) for its Middle Devonian (Givetian) limestone.

Habitats

The site comprises 0.3 hectares of remnant coastal limestone grassland sloping upwards to the western and northern boundaries of the application site to exposed quarry wall face. The site was cleared of scrub during the winter of 2015/16. The grassland is currently managed by cutting and mowing.

Species

Plant species recorded on site are considered those typical of calcareous coastal grassland. The site has favourable habitat for bats, nesting birds and reptiles.

Bat surveys carried out at the application site between 2015 and 2017 in relation to the Brixham Peninsula Neighbourhood Plan identified no roosts within the site and bat activity was found to be low with common pipistrelle most frequently recorded. There is evidence from a suite of bat activity surveys between 2013 and 2016 on the adjacent approved development site (Land at Waterside Quarry P/2016/0822 and P/2016/0824) of the presence of c. 1 to 2 greater horseshoe bats and lesser horseshoe bats roosting throughout the year within a cave in the adjoining quarry face (under the ownership of the adjacent development site). Thermal imaging data in September 2016 recorded lesser horseshoe bat accessing the cave roost along the site boundary between Waterside Road and the cave and from land immediately south-east of the cave [the application site] over the top of the quarry face. It is postulated within the survey report submitted with the adjacent application that greater horseshoe bats are likely to use these same routes. The data suggest the adjacent cave is used by horseshoe bats throughout the year and is likely to form a greater horseshoe and lesser horseshoe mating roost. The adjacent applications were approved in 2018 further to Torbay Council's Habitats Regulations Assessment which concluded no adverse effect on South Hams SAC greater horseshoe bats, subject to planning conditions/obligations including provision of a Dark Areas Map, Integrated Landscape and Lighting Design Strategy, Construction Environmental Management Plan, Landscape and Ecological Management Plan and Ecological Monitoring Strategy.

No evidence of badger was recorded. No nesting bird activity was recorded although their presence is assumed given suitable habitat present on site. Surveys recorded no reptiles however their presence is assumed based on proximity of recorded presence within adjoining land.

Impacts

Without appropriate mitigation, potential impacts during the construction phase of the development include harm to protected species including reptiles and nesting birds and potential disturbance to bats associated with the adjacent cave roost from noise and light.

The development would result in the permanent loss of improved and semi-improved calcareous grassland and scattered scrub. During the operational phase (the occupation of the development) light sensitive bat species including lesser horseshoe and greater horseshoe bat (both listed as Annex II species of the EU Habitats Directive) associated with the adjacent cave roost, without appropriate mitigation, are likely to be disturbed by increased levels of artificial lighting which may lead to disruption of roosting, commuting and foraging activity and abandonment of the adjacent cave roost.

Mitigation

The proposals are outline therefore mitigation design principles will inform the detailed design of the scheme to be brought forward at Reserved Matters. Biodiversity mitigation and enhancement principles are set out within the submitted Ecological Appraisal and within the submitted Habitats Regulations Assessment Screening Report (*Appendix 8: Ecological Management and Enhancement Plan*) and include:

- Recommendations for soft landscaping
- Erection of a variety of bird boxes
- Ecological supervision
- Mitigation and enhancement measures for reptiles
- Restricted lighting during construction
- Appropriate lighting design including avoiding sensitive areas and fitting properties with blinds before sale
- Provision of a home user guide
- Sensitive management of hedgerows
- New native hedgerow
- A detailed Landscape Strategy and Landscape and Ecological Management Plan to be provided at Reserved Matters
- Removal of non-native invasive plant species from the quarry face

Habitats Regulations Assessment

In line with the 2019 South Hams SAC Greater Horseshoe Bats Habitats Regulations Assessment Guidance and in accordance with the Conservation of Species and Habitats Regulations 2017 (as amended) a detailed Habitats Regulations Assessment has been carried out by the Local Planning Authority ecologist in relation to effects of the proposals alone or in-combination with other plans or projects on European Sites.

Subject to implementation of mitigation measures and additional recommendations and conditions requiring as part of any reserved matters application a Dark Areas Map, an Integrated Landscape and Lighting Design Strategy, a Construction Environment Management Plan and a Landscape and Ecological Management Plan, the Council has concluded that the proposals would not adversely affect the integrity of South Hams SAC. Natural England in its consultation response has advised no objection, concurring with the Council's conclusion of 'no adverse effect on SAC integrity' and considers no likely significant effect on South Hams SAC based on the small scale of development, sub optimal location, proximity of a minor roost and low greater horseshoe bat activity.

Biodiversity Net Gain

Natural England in its consultation response advises that in the Chancellor's 2019 Spring Statement, the government announced that it will mandate net gains for biodiversity on new development in England to deliver an overall increase in biodiversity. Accordingly to future proof the proposed development Natural England advises that it would be useful to demonstrate the delivery of biodiversity net gain, with the use of a recognised biodiversity metric mechanism. To provide a consistent and reliable approach to the calculation of biodiversity net gain, Natural England recommends use of the defra biodiversity net gain metric.

Biodiversity Policy

Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement proportionate to the context and development. Policy NC1 also requires that development around the edge of the built-up area that is within the Berry Head SAC Sustenance Zone will provide features to maintain and improve the ecological coherence of the landscape, necessary to maintain the Torbay population of Greater Horseshoe Bats in 'favourable conservation status'. This will include maintaining light levels at 0.5 lux.

Policy SS8 (1) requires sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 including particular attention to Greater Horseshoe Bat flightpaths.

Policy E8 Brixham Peninsula Neighbourhood Plan provides that development will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with Policy NC1 of the Torbay Local Plan (2012-2030).

Recommendations

Without appropriate mitigation, development has the potential to impact light sensitive bat species (including Annex II lesser horseshoe bats and greater horseshoe bats) associated with an adjacent year-round cave roost, adjacent commuting and foraging habitat and mitigation features. To satisfy the Local Planning Authority that development will result in no harm to protected sites and species it is recommended conditions/obligations are attached to any outline approval to require the following:

- There should be no light spill within 10m of the top of the adjacent quarry face greater than 0.5 lux. In order to demonstrate this a 'Dark Areas Map' shall be submitted to show all of the areas of the site and adjacent habitat that will remain unlit with light levels no greater than 0.5 lux;
- At Reserved Matters an Integrated Landscape and Lighting Design Strategy by suitably qualified lighting consultant for the 'dark areas' shall be submitted as part of any Reserved Matters application;
- A detailed biodiversity mitigation and enhancement strategy, including a biodiversity metric/ budget to provide for a biodiversity net gain shall be submitted at Reserved Matters;
- A Landscape and Ecological Management Plan (LEMP);
- A Construction Environmental Management Plan (CEMP);
- There shall be no vegetation removal or clearance works during the bird breeding season from March to September inclusive, except in the presence of a suitably qualified ecologist following written approval by the Local Planning Authority.

Reason:

To ensure that development will result in no adverse effect on protected sites and species and provide for a biodiversity net gain in accordance with the NPPF, Torbay Local Plan Policies NC1 and SS8; Policy E8 of the Brixham Peninsula Neighbourhood Plan and the Conservation of Habitats and Species Regulations 2017 (as amended).

Devon County Council's Senior Ecologist (HRA):

Habitats Regulations Assessment completed. The proposal would not result in adverse effects to the South Hams SAC, subject to securing mitigation measures.

Natural England: Thank you for your Habitat Regulations Appropriate Assessment consultation. Our advice relating to Green Infrastructure, and Biodiversity Net Gain also applies to application P/2019/0520.

South Hams Special Area of Conservation (SAC) - No objection

Natural England concurs with the conclusion of your Appropriate Assessment that the proposals will not result in adverse effects upon the integrity of the South Hams SAC. We note the small scale of the development, sub optimal location, proximity of minor roost, and low greater horseshoe bat activity. Based upon these considerations, it might have been sufficient to carry out a simple Habitats Regulations Assessment screening and conclude no likely significant effect upon the South Hams SAC.

Green Infrastructure

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Evidence and advice on green infrastructure, including the economic benefits of GI can be found on the Natural England Green Infrastructure web pages.

As part of Torbay Council's commitment towards Green Infrastructure, we are keen to see the integration of this important element into the proposals. This will facilitate a holistic approach and ensure that the development proposals are capable of delivering an environmentally sustainable package. If you have not already done so, we would encourage you to liaise with Torbay Council's green infrastructure officer to explore opportunities to strengthen Green Infrastructure.

Biodiversity net gain

In the Chancellor's 2019 Spring Statement, the government announced that it "will Mandate net gains for biodiversity on new developments in England to deliver an overall increase in biodiversity".

Accordingly and to future proof the proposed development, we advise that the proposals are reviewed in light of this commitment towards the delivery of biodiversity net gain. It would be useful to demonstrate the delivery of biodiversity net gain, with the use of a recognised biodiversity metric mechanism. To provide a consistent and reliable approach to the calculation of biodiversity net gain, we recommend use of the defra biodiversity net gain metric.

RSPB:

No response received.

Devon Wildlife Trust:

No response received.

Geopark Management Group:

The English Riviera UNESCO Global Geopark (ERUGGp) supports, and is grateful for, the recognition of the importance of the Goodrington Quarry and Road Cutting Regionally Important Geology site (RIGS), a site which contributes to understanding the unique and internationally important marine Devonian geology of the Geopark territory, and the sites value towards retaining the UNESCO status for Torbay.

The ERUGGp's overall approach to any planning application connected to or near a designated site is that, should the application be granted, any development should deliver the protection and enhancement of geodiversity with the submission of sufficient survey information (by a suitably qualified person) that sets out the condition of sites, and containing clear goals for the management of identified aspects and areas to protect, promote public access (where appropriate), academic access for research by permission (where public access is not appropriate), appreciation and interpretation of geodiversity commensurate with the sites importance.

The site was considered as part of the overall work of Dr Kevin Page on the Geopark Condition Assessment and Management Recommendations report (2019) but that due to the area being private land and fenced it was not accessed or surveyed directly. The site is therefore noted currently as Unfavourable-declining and the recommendation within the report is for the site to be surveyed to determine if it recoverable.

ERUGGp acknowledges that previous planning applications have been granted on the land included in the designated area sold by Torbay Council in 2014. It is important to state that the Geopark was not aware of these events and had it been, the same recommendations below would have been made.

Therefore, considering all aspects, should the planning application be accepted, the recommendations the ERUGGp would encourage you to make are:

- a) that in addition to any structural geological survey, the entire RIGS site is surveyed by a geologist with specialist/credible knowledge on the Marine Devonian. The ERUGGp can recommend an expert with a record of working in this field.
- b) that any site clearance done to either enable the survey or that is carried out as part of site management is carried out holistically taking into account the geodiversity and biodiversity of the site, adhering to all relevant legislation.
- c) that any management and interpretation recommendations are completed.
- d) that, as the land is privately owned, access, by prior arrangement, for researchers and academics is permitted in future. This is not in any way anticipated to be frequent or onerous.

The ERUGGp is keen to support and assist all private owners of designated sites and therefore is happy to assist in any way it can moving forwards.

Council's Head of Parks and Open Spaces:

In essence the information provided is satisfactory with a fair assessment of the tree stock supported with a tree protection plan. However, the tree protection plan is not dimensioned - we would request that the plan is dimensioned to allow for accurate setting out of the fence that would also provide a stated metric for the ongoing site visits by the arboricultural consultant or tree officer that will enable confirmation that the tree protection fence is in the right place.

We would also, as a standard condition received prior to commencement, require an AMS detailing; a pre-commencement meeting, issuing of TPP, frequency of site visits, written confirmation of site supervision to be made available to the LPA and location of services and their impact on the development/retained trees.

All landscape planting should refer to BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations.

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. Impact on Ecology and Trees
6. Flood Risk and Drainage
7. Affordable Housing Contributions

Planning Officer Assessment

1. Principle of Development

The proposal is for outline planning permission with all matters reserved for three dwellinghouses. Objectors have raised concerns regarding the designations of the site with regard to the Development Plan, brought attention to the deallocation of the site as a housing site in the Brixham Peninsula Neighbourhood Plan, they believe it would set a precedent and would constitute an overdevelopment of the site.

Policy H1 of the Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. At present the Council cannot demonstrate a 5 year housing land supply and therefore the tilted balance in favour of sustainable development is applicable as set out in the National planning Policy Framework:

Paragraph 11 of the NPPF states:

Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

The impact of paragraph 11 of the NPPF in the assessment of this application is that development plan policies that are most important for determining this application are out of date and that planning permission should be granted unless any adverse impacts of do so would significantly and demonstrably outweigh the benefits.

The site is located within an established residential area. Those in support of the proposal have stated that the development would provide jobs and housing.

The site is located within the Broadsands Settlement Boundary as defined by Policy E2 of the Brixham Peninsula Neighbourhood Plan, which states that subject to compliance with the other policies of the Neighbourhood Plan, proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement as per Policy BH5 of the Brixham Peninsula Neighbourhood Plan.

The application site was considered for inclusion as a housing allocation site within the Brixham Peninsula Neighbourhood Plan. Following a screening appraisal of the site by the Council's Ecologist and a review of the AECOM HRA of the Brixham Peninsula Neighbourhood Plan on behalf of Torbay Council, the site was removed from the plan on the recommendation of the independent Examiner's Report (McCann, July 2018):

'My conclusion is that I am not satisfied that the HRA assessment of the site as submitted is adequate. The NPPF is clear that sites allocated should be both deliverable and developable. In my planning judgement there is sufficient uncertainty

about the deliverability and developability of the site that it should be deleted from the table'.

This conclusion appears to be in light of Jacob's and Greenbridge's view that the adjacent confirmed greater horseshoe bat cave roost was not sufficiently considered at the time of the Brixham Peninsula Neighbourhood Plan HRA work carried out by AECOM on behalf of Brixham Parish Council/Brixham Peninsula Neighbourhood Forum. It should be noted that both this application and the other application which was recently determined (planning reference P/2019/0617) have had a Habitat Regulations Assessment commissioned, which does make proper consideration of the greater horseshoe bat cave roost, and therefore has the potential to overcome this previous concern.

Having regard to the lack of a demonstrable 5 year housing land supply it is necessary therefore to assess if the proposed development represents sustainable development including economic, social and environmentally and whether any adverse impacts of approving this development would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

2. Impact on the Character of the Area

Paragraph 124 of the 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. Paragraph 127(c) of the NPPF states that planning policies and decisions should ensure that developments 'are sympathetic to local character and history, including the surrounding built environment and landscape setting'. In addition, paragraph 130 of the NPPF 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 BH5 of the Brixham Peninsula Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area.

The surrounding area is somewhat urban in character, but development is at a lower density than in some other parts of Torbay. Waterside Road consists of large, detached, two-storey, 1930s dwellinghouses within spacious plots. Such dwellinghouses have an appearance typical of their time with painted rendered walls and pitched roofs. Objectors have raised concerns that the proposed development would have a negative impact on the local area and it is not in keeping with the local area. The proposal however seeks outline consent with all matters reserved hence all matters of layout, scale, appearance and landscaping are reserved for future consideration should planning permission be granted.

It should be noted that there is some indicative detail that seeks to show the potential positioning of the plots, with the submitted Design and Access statement indicating the potential for two-storey development, with the lower floors being cut into the sloping ground to present two storeys to the east but only one storey to the west. Flat roofs are indicatively shown, similar to those dwellinghouses at Waterside View. It is considered that the indicative positioning of the footprints would provide an active and positive street frontage from Waterside Road. Consequently, it is also imperative to give consideration to the Urban Landscape Protection Area (ULPA) designation on site in relation to the potential impact the proposal may have.

The site is located within an area designated as an ULPA as defined by Policy C5 of the Local Plan. Policy C5 specifies that development within an 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.

In terms of landscape impact it is relevant to consider the cumulative effects of the dwellinghouses previously approved (3 x 4 bed dwellinghouses have been granted planning permission under planning references P/2016/0822 and P/2016/0824 and are currently under construction on the site – these are located north-west in relation to the current application site) and validly implemented on the site currently under construction by Coyde Construction, and the proposed dwellings on the upper eastern site (this application site). It is considered that the application site is mainly screened when viewed from Dartmouth Road, given the topography of the land. The site would however be visible from Waterside Road. A cross-sectional plan of the site has been provided, the indicative height is considered to be acceptable, a planning condition is recommended to ensure that at reserved matters stage the design and scale of the proposed development does not exceed such heights. The submitted Design and Access Statement shows indicative landscaping, which would mitigate the visual impact of the proposed development on the character and appearance of the site and locality. It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPA, subject to a suitable landscaping scheme and ensuring the height of the dwellinghouses does not exceed the indicative height shown on the cross-sectional plan. It is considered that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the ULPA in terms of the proposal not undermining the value of the ULPA as an open or landscaped feature within the urban area and making a positive contribution to the urban environment and enhance the landscape character of the ULPA, subject to suitable landscaping and other matters being resolved at the reserved matters stage.

It is considered that the proposed development in terms of visual amenity and impact on the ULPA is acceptable and accord with Policies DE1 and C5 of the Local Plan, Policy BH5 of the Brixham Peninsula Neighbourhood Plan and guidance contained within the NPPF.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Brixham Peninsula Neighbourhood Plan is largely silent on the matter of amenity. Paragraph 127 of the NPPF guides 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.

The proposal is for outline planning permission with all matters reserved for three dwellinghouses. Whilst the proposal only seeks outline planning permission with all matters reserved, it does detail an indicative proposed site layout in order to try and demonstrate that appropriate residential environments could be achieved. Due to the scale of the plots it is likely that a good standard of residential environment could be achieved for future occupiers of the site. All habitable rooms should provide sufficient outlook and levels of natural light. In terms of internal floorspace requirements, Policy DE3 of the Local Plan sets the minimum standards that all new development proposals should adhere to. Furthermore, Policy DE3 of the Local Plan states that all new dwellinghouses should provide a minimum of 55 square metres of outdoor amenity space, which are useable and relatively private. Given the spacious site area, it is considered that this would be achievable.

Objectors have raised concerns regarding residential amenity and privacy/overlooking. It should be noted that given the contour lines, the site is on higher ground than the Coyde Construction site. The nearest dwellinghouses would be those sited on Waterside View with No.3 Waterside View being some 24 metres away from 'House 3' which is proposed, and other nearby dwellinghouses are those currently under construction on the Coyde Construction site, there would be some 33 metres distance indicatively shown between the proposal and the under construction dwellinghouses. There is a considerable difference in land levels between the proposed site and the Coyde Construction site. The indicative layout demonstrates that acceptable separation distances are achievable onsite. In regard to neighbouring occupiers should planning permission be granted, subject to a well resolved reserved matters application, that duly considers scale, proximity and detailed design in terms of the relationships to adjacent buildings and private gardens, it is likely that three dwellinghouses could be delivered without undue impact upon adjacent occupiers.

All matters considered the proposal, subject to a well resolved reserved matters, is likely to provide and retain acceptable living environments for future occupiers in accordance with Policy DE3 of the Development Plan and NPPF.

4. Impact on Highway Safety

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

Para. 109 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 of the Local Plan 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 BH8 of the Brixham Peninsula Neighbourhood Plan states that all new development should comply with the relevant adopted standards.

Objectors have raised concerns regarding traffic and access. The proposal seeks outline consent with all matters reserved hence all matters including access are reserved for future consideration should planning permission be granted. When determining such an application, the Local Planning Authority need only decide whether there is a reasonable prospect of a vehicular access which:

- i. complies with the Highway Design Guide; and
- ii. will afford each of the proposed dwellings with policy-compliant levels of parking; and
- iii. is otherwise acceptable in Planning terms (e.g. impact on neighbouring dwellings)

As required by the Town and Country Planning (Development Management Procedure) (England) Order 2015, the outline application must indicate the area where access to the proposed development would be situated. Any reserved matters application must not diverge from the outline permission, and a reserved matters application cannot be used to bring in matters completely outside the scope of the original permission. If a new means of access, not sought at outline stage, is proposed

in detailed plans, this would be a departure from the outline consent, entitling the Local Planning Authority to refuse to approve the plans.

The proposed vehicular access is indicated on the submitted plans (plan references '1927 PL2' received 15/05/2019 and '1927 PL4 B (Access Visibility)' received 22/06/2020). The proposed access road should comply with the Council's "Highway Design Guide for New Developments". The design guide states that a shared private drive (a shared surface which forms a cul-de-sac or courtyard serving a maximum of 5 houses) whose length exceeds 25 metres should provide a turning area for refuse vehicles and passing bays. The access road from Waterside Road indicates that the driveway to House 3 would be accessed close to Waterside Road and Houses 1 and 2 would share approximately a 20 metre section of driveway, this is considered to be acceptable.

The Council's Highways Engineer has stated that at the junction with Waterside Road the proposed access would be required to have a visibility of 43 metres x 2.4 metres x 43 metres, which is the recommendation for a 30mph road. The applicant has submitted a visibility splays plan, which is accompanied by a speed and traffic volume study. The Engineer has assessed the submitted information and has stated that the Local Highway Authority has no objections. The Engineer noted that the wing walls at the access should be clear of landscaping obstructions and the walls ideally kept to 600mm to 800mm high so there is clear visibility when sat in a vehicle exiting the access.

It is considered that impacts relating to highway matters are acceptable and accord with Policies TA1, TA2 and TA3 of the Local Plan, Policy BH8 of the Brixham Peninsula Neighbourhood Plan and guidance contained within the NPPF.

5. Impact on Ecology and Trees

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plans states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that internationally important sites and species will be protected. Development affecting internationally protected site and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to the NPPF and conforms with Policy NC1 of the Local Plan.

The application site is approximately 5.5km north-west of the Berry Head to Sharkham

Point component of South Hams Special Area of Conservation (SAC). The site is within the Berry Head roost Sustenance Zone.

The application is supported by an Extended Phase 1 Habitat Survey & Ecological Appraisal (Sunflower International, August 2019); a Habitats Regulations Assessment Screening Report incorporating Ecological Management and Enhancement Plan (Professor John Altringham, dated March 2018); and a Habitats Regulations Assessment Screening Report, Lower Western Site (Adam Billings, dated May 2019). Objectors have raised concerns regarding the impacts on wildlife. Natural England, the RSPB, the Devon Wildlife Trust and Devon County Council's Senior Ecologist have been consulted on this application. A Habitat Regulations Assessment (HRA) was commissioned and undertaken by Devon County Council's Senior Ecologist.

The habitats within the site boundary comprises of approximately 0.3 hectares of damp limestone grassland and quarry face. The site was cleared of scrub during the winter of 2015/16 and is currently managed by mowing and scrub cutting. The site slopes upwards to the western and northern boundaries of the application site to the exposed quarry wall face. The grassland habitats are assessed by Sunflower International as containing species typical of coastal limestone grassland, with higher species diversity towards the top of the slope and lower diversity within the development footprint.

The site is on the west side of Waterside Road within an urban location on the southern edges of Paignton close to the main Paignton/Brixham Road (A379 - Dartmouth Road). Waterside Road is a cul-de-sac off Dartmouth Road which links housing and terminates in Waterside Holiday Park. The site was quarried for limestone until the 1960s and there are exposed quarry faces along the northern and western boundaries. The site was sold as one of five plots by Torbay Council in 2014 (3 sold as development land, 2 including this site as amenity land). The site is located within an ULPA. The site is not allocated in the Torbay Plan or the Brixham Peninsula Neighbourhood Plan.

The wider site comprises the Upper Eastern Site (this application site), the Lower Western Site (application P/2019/0617 which was recently refused outline consent for 3 dwellings) and the adjacent development site to the north-west (P/2016/0822 and P/2016/0824) for 3 dwellings (approved and under construction) (under different ownership). The site is approximately 5.5km from the South Hams SAC. The site is within a greater horseshoe bat 'Sustenance Zone' as defined by Natural England (2010).

The proposed works would result in the permanent loss of improved and semi-improved grassland and scattered scrub.

Mitigation measures outlined in Sections 13 and 14 of the HRA, will ensure that likely significant effects on the South Hams SAC greater horseshoe bats around the site and

in combination with other projects are avoided. A planning condition is recommended to secure said mitigation measures. Subject to the aforementioned mitigation measures, it is therefore concluded that this proposal will not have an adverse effect on the integrity of the South Hams SAC.

Natural England concurs with the conclusion of the Appropriate Assessment that the proposals will not result in adverse effects upon the integrity of the South Hams SAC. Natural England notes the small scale of the development, sub optimal location, proximity of minor roost, and lower greater horseshoe bat activity. Based upon these considerations, Natural England have stated that it might have been sufficient to carry out a simple Habitats Regulations Assessment screening and conclude no likely significant effect upon the South Hams SAC. The RSPB and the Devon Wildlife Trust did not respond to the consultation request.

Devon County Council's Senior Ecologist has stated that should outline consent be granted mitigation design principles should inform the detailed design of the scheme at the detailed reserved matters stage. Further planning conditions should include a Dark Areas Map, an Integrated Landscape and Lighting Design Strategy, a Construction Environment Management Plan and a Landscape and Ecological Management Plan. Biodiversity mitigation and enhancement principles are set out within the submitted Ecological Appraisal and within the submitted Habitats Regulations Assessment Screening Report (Appendix 8: Ecological Management and Enhancement Plan) and should be undertaken.

Natural England have stated that the proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Natural England have advised that it would be useful to demonstrate the delivery of biodiversity net gain, with the use of a recognised biodiversity metric mechanism.

The exposed quarry face which forms the eastern boundary is designated as a Regionally Important Geology Site (RIGS) and County Geological Site (CGS) for its Middle Devonian (Givetian) limestone. The Geopark Management Group were consulted on the application and has stated that the English Riviera UNESCO Global Geopark (ERUGGp) supports, and is grateful for, the recognition of the importance of the Goodrington Quarry and Road Cutting Regionally Important Geology site (RIGS), a site which contributes to understanding the unique and internationally important marine Devonian geology of the Geopark territory, and the sites value towards retaining the UNESCO status for Torbay. A planning condition is recommended to ensure that the proposed development has regard to the importance of the RIGS.

Policy C4 of the Local Plan states that development will not be permitted where 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.

Objectors have raised concerns regarding the trees. The proposed development would result in the loss of insignificant vegetation. The application is supported by a Tree Appraisal Plan and a Tree Plan, it states that no trees are to be felled. The Council's Head of Parks and Open Spaces has assessed the proposed development and states that in essence the information provided is satisfactory with a fair assessment of the tree stock supported with a tree protection plan. At the request of the Officer, the Tree Protection Plan has been suitably scaled.

A pre-commencement planning condition is recommended to secure an Arboricultural Method Statement, which details a pre-commencement site meeting, issuing of a Tree Protection Plan, frequency of site visits, written confirmation of site supervision to be made available to the Local Planning Authority and location of services and their impact on the development/retained trees. All landscape planting should refer to BS: 8545:2014 Trees: from nursery to independence in the landscape - Recommendations. Subject to the aforementioned planning condition, the proposal is considered to comply with Policy C4 of the Local Plan.

It is considered that impacts on matters of biodiversity, geology and trees are acceptable and accord with Policies NC1 and C4 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan, subject to appropriate mitigation.

6. 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.

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. The Council's Drainage Engineer and South West Water raise no objections to the proposed development and method of surface water drainage. Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice. Subject to the use of a planning condition to secure the intended means of surface water drainage, the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

7. Affordable Housing Contributions

The proposal falls below the threshold for affordable housing contributions as outlined in Policy H2 of the Local Plan which seeks affordable housing contributions on greenfield sites of 10% for three to five dwellings which is delivered through a commuted payment.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development

In respect of the economic element of sustainable development the balance is considered to be in favour of the development

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape in particular the ULPA; ecology and bio-diversity and surface and foul water drainage. These matters are considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. Moreover, those 'benefits' have to be set against the loss of an area of open greenspace, leading to a change in the local environment and landscape. These impacts are not considered to be significant however.

The proposed development is in a sustainable location inasmuch as it is within the existing urban area and is located in close proximity to local amenities and good public transportation links.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent sustainable development.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106:

Not applicable.

CIL:

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule. The CIL liability for this scheme is Nil.

EIA/HRA

EIA:

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

HRA:

The application site is within a sustenance zone associated with the South Hams SAC. A Habitat Regulations Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC or the functionally-linked supporting habitat associated with this either alone or in combination with any other plans or projects, subject to mitigation measures secured by condition and/or obligation and being implemented in full.

Planning Balance

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

Conclusions and Reasons for Decision

In the absence of a 5 year housing land supply applications for sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal is considered 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, ecology and flood risk. The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Brixham Peninsula Neighbourhood Plan, the NPPF 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 for Planning, Housing and Climate Emergency.

Conditions

Standard Time

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

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

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

Reserved Matters

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

- (i) layout,
- (ii) scale,
- (iii) access,
- (iv) appearance, and
- (v) landscaping.

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

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

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

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.

Flood Risk Assessment

The development hereby approved shall be undertaken in full accordance with the submitted site specific flood risk assessment, including the flood mitigation measures contained within the site specific flood risk assessment referenced " P2019-0520-1", received 15th May 2020. The flood mitigation measures shall be provided prior to the occupation of the development and shall be retained as such thereafter.

Reason: In the interests of flood safety and in accordance with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Arboricultural Method Statement

Prior to the commencement of the development hereby approved, an Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The Arboricultural Method Statement shall include, but not be limited to, a pre-commencement site meeting, issuing of a Tree Protection Plan, frequency of site visits, written confirmation of site supervision to be made available to the Local Planning Authority and location of services and their impact on the development/retained trees. The development shall thereafter be carried out in accordance with the approved details or any variation as may subsequently be agreed in writing by the Local Planning Authority.

Reason: To protect trees in the interests of visual amenity in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan. These works are required prior to commencement in order to ensure the natural environment is protected during the development period.

Height of Development

The development hereby approved shall not exceed the height indicated on plan reference '1927 PL3 B (site sections)' received 4th June 2020.

Reason: In the interests of visual amenity in accordance with Policies DE1 and C5 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Construction Method Statement

No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

- (a) 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, where appropriate
- (e) wheel and/or highway washing facilities
- (f) measures to control the emission of dust and dirt during construction
- (g) measures to minimise noise nuisance to neighbours from plant and machinery.
- (h) construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

The approved Statement shall be adhered to throughout the construction period.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users. These details are required prior to commencement of development to secure suitable parameters for the construction phase.

Construction Environmental Management Plan

No development shall take place (including ground works, vegetation clearance) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

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

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

Reason: In the interests of protected species and residential amenity and in accordance with Policies NC1 and DE3 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan. These details are required prior to commencement of development to secure suitable parameters for the construction phase.

Landscape and Ecological Management Plan

No development shall take place, including ground works and vegetation clearance until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the local planning authority. The content of the LEMP shall be prepared in accordance with the specifications in BS42020; clause 11.1 and shall include the following

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

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

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

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

Permitted Development – Micro Wind Turbines

Notwithstanding the provisions of Class H of Part 14 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 installation of wind turbines shall take place to the approved dwellings, 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 the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

Ecological Mitigation Measures

The development hereby approved shall be carried out in strict accordance with the recommendations of the Ecological Management and Enhancement Plan (plan reference 'P2019-0520-4 Screening Report' received 15th May 2019) and Habitats Regulations Assessment Screening Report (plan reference 'P2019-0520-3 Habitat Regulations Asses' received 15th May 2019).

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

Lighting Assessment and Design Strategy

Within the application for reserved matters, a Lighting Assessment and Design Strategy by an accredited Lighting Consultant shall be submitted to and approved in writing by the Local Planning Authority. Such assessment and strategy shall include a 'dark areas' plan and demonstrate how there shall be no light spill within 10 meters of the top of the quarry face and adjacent tree line (at the northern boundary of the application site). The strategy shall support lighting measures incorporated into the development of the adjacent land. The development shall proceed fully in accordance with the approved details.

Reason: In the interests of the amenity in relation to neighbouring properties and biodiversity, and in order to accord with Policies DE3 and NC1 of the Torbay Local Plan 2012-2030.

Goodrington Quarry and Road Cutting Regionally Important Geology Site

No development shall take place, until a structural geological survey is undertaken by a geologist with specialist/credible knowledge on the Marine Devonian and submitted to and approved in writing by the LPA. The approved structural geological survey shall be adhered to and implemented throughout the development strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Reason: In the interests of the visual amenity and geology, and in order to accord with Policies DE1 and NC1 of the Torbay Local Plan 2012-2030. These details are required prior to commencement of development to ensure geological features are not harmed.

Electric Charging Point

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

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

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](#)

05. Approved plan '1927 PL3 B (site sections)' received 4th June 2020 is only approved in so far as it relates to condition 6 (Height of Development).

Relevant Policies

C4 – Trees, Hedgerows and Natural Landscape Features

C5 – Urban Landscape Protection Areas

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

BH5 – Good Design and the Town and Village Design Statements

BH8 – Access to New Dwellings

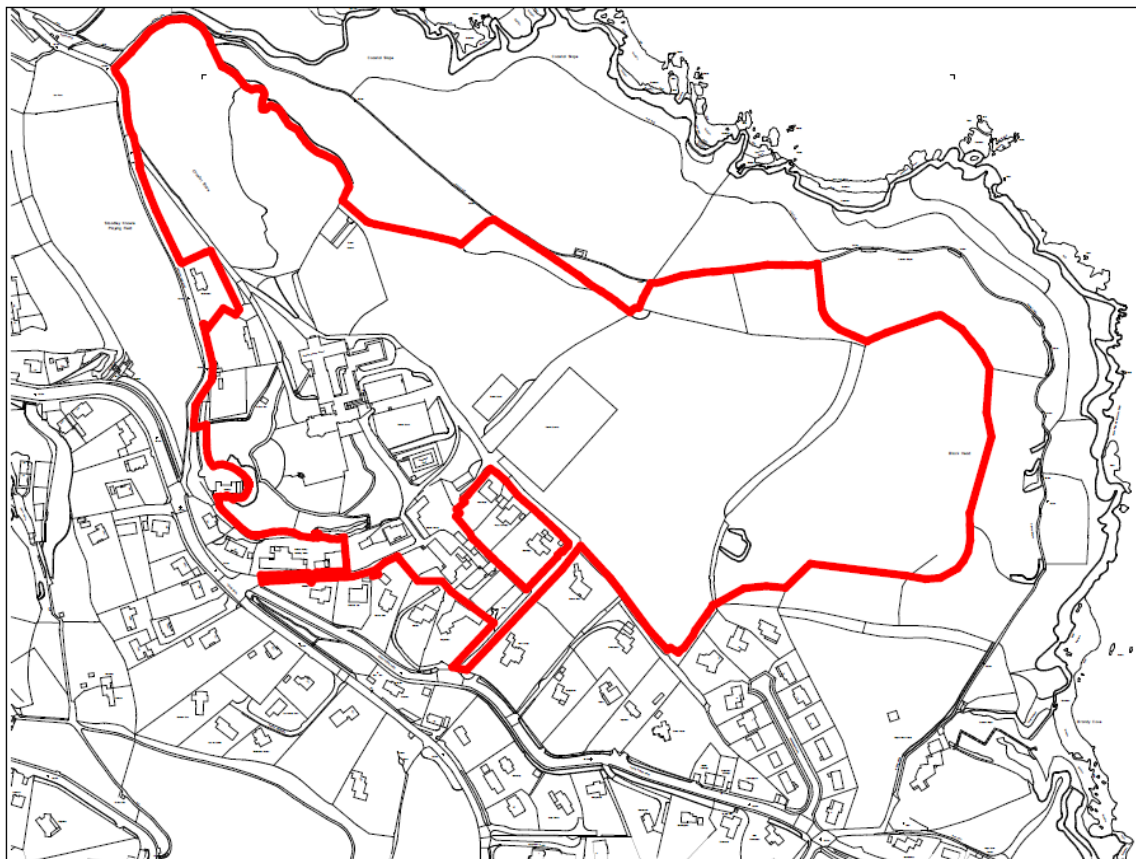
E2 – Settlement Boundaries

E8 – Internationally and Nationally Important Ecological Sites



Application Site Address	Stoodley Knowle School, Ansteys Cove Road Torquay TQ1 2JB
Proposal	Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure.
Application Number	P/2019/1330
Applicant	The PG Group
Agent	Bell Cornwell LLP
Date Application Valid	16.12.2019
Decision Due date	16.03.2020
Extension of Time Date	17.07.2020
Recommendation	Approval subject to conditions and a S106 legal agreement (detailed wording at the end of this report)
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

Location Plan –



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SITE LOCATION PLAN
1:1250

Site Details

The site is that of the former Stoodley Knowle School, an independent girls school which closed in 2015, set within the suburb of Wellswood, Torquay, located on an elevated coastal position between Ansteys Cove to the north-west and Hope Cove to the south-east.

The site covers a total of 17.4 hectares and comprises a large complex of buildings along with areas of open meadow, gardens and woodland. The existing buildings are primarily located towards the centre and western parts of the site and are a mixture of styles and ages, varying in scale between larger more modern institutional buildings to much smaller more domestically scaled period buildings. The more domestically scaled building group towards the southern border of the site includes buildings that are subject to statutory Grade II or II* listings.

In addition to the buildings the site includes various areas of woodland which are located primarily towards the southern and northern boundaries of the site, with smaller pockets of trees located on its other boundaries. Areas of open meadow predominate the north and eastern half of the site and gardens frame the built form to the southern half of the site. There are two substantial areas of hardstand (former tennis courts) that punctuate the open meadow close to the eastern-most access point into the site.

The north and east boundaries of the site run along a steep wooded slope above the public South West Coastal Path, which circumnavigates the coastal border of the site. The boundary to the west is bounded by Anstey's Cove Road, from which one of the main access routes to the site is located. The southern boundary borders a number of residential properties on Ilsham Marine Drive and there are two further vehicular routes into the site off Ilsham Marine Drive. One access is via Ilsham Close, which is a private lane and further west sits the previous main access, which is again via a private lane which also serves a handful of existing dwellings as well.

The Torbay Local Plan identifies the meadow, open space and woodlands north and east of the internal road through the site as Undeveloped Coast. The western slopes east of the main building group facing towards Ilsham Road is an Urban Landscape Protection Area. The woodland to the south-east and escarpment to the north are Local Nature Reserves. Adjacent to the site the coastal slopes are a designated SSSI (Site of Special Scientific Interest), and in terms of the adjacent marine environment the site is adjacent to the Lyme Bay and Torbay SAC (Special Area of Conservation) and Marine Conservation Zone. In terms of further designations the site is within a Critical Drainage Area.

Description of Development

The application seeks the demolition of the majority of the school buildings in order to redevelop the site to provide 90 residential units comprising 68 apartments, 13 new-build dwellings and 9 dwellings via the conversion of existing buildings.

The bulk of the existing school buildings (which are largely modern) are to be demolished and replaced with three apartment blocks to a scale of four and five

storeys, set within a loose triangular arrangement. The apartments are mostly 2-bed (x56) but there also 1-bed (x10) and 3-bed (x2) units provided. In terms of design the appearance of the apartment blocks is modern with natural materials and natural tones used across the floors which seek to respond to the landscape setting. The main materials are a mixture of stone (base level), bronze metal cladding panels (for the middle sections) with a largely glazed upper floor. Car parking for the apartments would be located in the immediate vicinity of these buildings, with 93 spaces provided for the 68 apartments and 2 dwellings.

The School Main House (Villa Building) that is at the centre of the existing school complex is to be retained and converted into two large apartments, with parking provided nearby as part of the 93 spaces set around the apartment blocks.

In regard to the remainder of the conversion units the complex of historic buildings, which is located towards the southern end of the site, is to be converted into a number of houses to present a 'historic quarter'. Where appropriate, some of the less sensitive additions to these properties are proposed to be demolished together with some degree of extension. The scheme seeks to provide this area of the site with a strong sense of enclosure and of improved historic character. 7 dwellings will be provided within the historic quarter, which will be accessed from the east off the existing private drive.

In regard to the 13 new-build dwellings 7 will be provided along the south-eastern boundary adjacent to the existing access road and existing residential properties that sit adjacent to the site. Within the 7 there are 2 dwellings to the east of the access point, which are modern mono-pitched units that are 2-storeys high with a small degree of additional internal space within part of the roof. The character is modern and the materials are a mix of stone and timber cladding under a standing seam roof. The 5 units to the west of the access point in the areas of the existing tennis courts are also two storey in scale and use similar materials, but are presented in a gabled form rather than a mono-pitch. Elsewhere three dwellings are proposed between the listed buildings and the retained Villa and proposed apartments, in the area that currently holds a swimming pool and general landscaping. Due to the rising ground levels westwards two of these are split level and one is single storey. The appearance is flat roofed and modern with natural materials (stone and timber) seeking to respond to the landscape setting. Further west the remaining 2 new-build dwellings are set within the walled gardens near to Ansteys Cove Road. The scale is again two storeys and each house is conceived as a stone plinth with a lightweight glazed 'pavilion' over, under a shallow roof profile, which seeks to respond to the roof profile of the historic greenhouses.

A single vehicular access into the site using the existing road from Ilsham Marine Drive is proposed with the second existing access, from the direction of Anstey's Cove Road, to be used solely to provide cycle and pedestrian access. The existing third access to the site via Ilsham Close will not be openly used for the development and will solely serve one of the new-build dwellings.

Surface water drainage will be dealt with by a combination of communal geocellular soakaways, attenuation ponds and a degree of connection to the Public Sewer system.

As a guide six hectares of the 17.4 hectare site would be subject to material change with the bulk of this change being on previously developed land.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

Pre-Application:

DE/2017/0138: Conversion of 5 x listed barns and restoration of the Grade II.* Chapel. Demolition of all other buildings and replacement with 25 x new houses, 60 to 80 x 1,2 and 3 bedroom flats and a 60 bedroom nursing home. Landscaping and amenity space. Split Decision.

Applications:

P/2019/1334: Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure. (*Associated Listed Building Consent to P/2019/1330*). Pending determination

*P/2018/0472: Demolition and conversion of former school buildings; creation of 106 dwellings comprising apartments and houses (97 new build units); and construction of a 60-bed care home, along with car parking, landscaping, and other associated infrastructure. Pending determination.

*P/2018/0473: Demolition and conversion of former school buildings; creation of 106 dwellings comprising apartments and houses (97 new build units); and construction of a 60-bed care home, along with car parking, landscaping, and other associated infrastructure. (*Associated Listed Building Consent to P/2019/1330*). Pending determination.

*The consideration of these applications has been paused whilst the Authority considers the current 'reduced' scheme for 90 units, which the applicant has submitted to try and respond to officer concerns (principally) regarding the extent and location of development within the Undeveloped Coast.

P/2011/1245: Demolition of house at St Gerard and construction of 2 new houses within the site curtilage (In outline). Approved.

P/2014/1018: Construction of two new dwellings within the site curtilage, illustrating appearance, external landscaping, site layout and dwelling layouts (reserved matters following outline approval P/2011/1245). Approved.

Summary of Representations

A total of 10 public representations have been submitted objecting to scheme. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues/ Material Considerations section of this report. The concerns raised in the objections are as follows:

- Volume of traffic using the junction with Ilsham Marine Road.
- The proposal for a footpath link to Ilsham Close is ambiguous and should be secured to encourage sustainable modes of local transport.
- The use of Ansteys Cove Road as an access would remove traffic through the busy section of Ilsham Road.
- Increased pressure upon health care.
- Over development.
- Too exclusive.
- Impacts a beauty spot and undesignated coastal land.
- Un-needed housing in the wrong location.
- Impact on local schools and community services.
- Impact upon ecology that use the site.
- Potential flooding on adjacent properties.
- Impact upon amenity from the properties adjacent to the detached dwellings and the converted listed buildings.
- Development should not have street lights due to its location.

Positive comments:

- Welcome the reduction in scale of the proposed development; particularly the removal of the Nursing Home given the commercial and staff traffic that would have been associated with this.

The NHS Devon Clinical Commissioning Group have raised concern that the development is likely to result in an additional patients and a resultant cost of £33,675 which should be secured from the developer in order to mitigate the impact of the development in question. In addition to the contribution figure the NHS CCG also suggests any legal costs incurred as a result of the preparation and completion of the s106 agreement should be secured.

The Torbay and South Devon NHS Trust has raised concern on health provision and

that without securing such contributions, the Trust would be unable to support the proposals and would object to the application because of the direct and adverse impact of it on the delivery of health care in the Trust's area. A contribution for 90 dwellings is £89,151.20 is sought to be used directly to provide additional health care services to meet patient demand.

Officer comment: The Development Plan only seeks S106 obligations for health care from specialist accommodation for the elderly (as per Policy H6) or where development gives rise to a specific need (such as a new surgery). The obligations sought by the NHS bodies are not considered to meet the necessary tests for obligations and cannot be sought. The obligations seek to respond to an increase in pressure upon services from additional housing, however expectations for housing growth within Torbay has been publically established for some time within the Development Plan. Although the site is not allocated for housing there is an expectation that almost a quarter of the housing supply for the plan period will be delivered through windfall sites, although sites are generally expected to be minor in scale. It is however also important to consider that the Council cannot currently demonstrate the expected 5 year housing land supply, which suggests housing growth will be lower than that projected within the Development Plan. In this particular instance in the absence of a particular policy to support the notion of health obligations it is not considered justifiable to seek the obligations on this windfall site where growth levels are below the levels expected within the Development Plan.

Summary of Consultation Responses

Torbay Council Strategic Transport Officer (incorporating comments of the Highway Authority):

The site is to be served by a shared surface street, which by virtue of ecology, landscape and conservation factors has not been designed to the Torbay Highways Design Guide and cannot, therefore, be adopted via Section 38 Agreement and is contrary to policy. However in the context of the previous use, NPPF paragraph 109 (see below) and the provision of an acceptable road management plan and waste management plan, this would not result in an unacceptable impact on highway safety, or severe residual cumulative impacts on the road network.

Recommended Actions/Requirements:

The applicant will need to provide further details prior to marketing and occupation:

- Where possible, construction of the internal roads and footpaths within the internal layout in accordance with the Torbay 'Highways Design Guide for new developments'.
- The Submission of a Road Management Plan to ensure that there is an appropriate scheme of maintenance and which ensures a minimum clear way is maintained at all times for delivery and emergency vehicles.
- A Waste Management Plan (Policy W1 and W2) indicating recycling/waste collection method statement. This can be conditioned.
- The development will need to secure appropriate levels of electrical charging points in accordance with Policy TA3. This can be conditioned.

- A revised and updated Travel Plan and Implementation Strategy with SMART targets to seek to meet Policy (TA2) requirements of (30% modal shift to foot, cycle and public transport) with appropriate mitigation measures should these targets not be met to be made available to the LPA. This can be conditioned prior to marketing.
- Please note that the required minor alterations to the access onto the public highway will need to be carried out under an appropriate license from the Highway authority.

Torbay Council Drainage Engineer:

Further to the email dated 23rd April 2020 attaching revised surface water drainage details for the above planning application, I can confirm that providing the surface water drainage is constructed in accordance with the latest drawings and the submitted hydraulic modelling, I would have no objections to planning permission being granted for this development.

South West Water:

South West Water has no objection or comment.

Torbay Council Community Safety Team:

Further to your recent consultation regarding the above application I would confirm that that I have no objection subject to the inclusion of a condition requiring a demolition/construction management plan.

Torbay Council Arboricultural Officer:

Having read through the woodland management plan I am happy with the overview provided and the management proposals within the report.

Torbay Council Waste and Recycling Team:

I understand that this development is a mix of individual and flatted properties. The flatted properties with a communal bin store are the biggest concern in terms of storage space, as developers often do not provide adequate space for them to be used easily by residents. I understand that current Planning policy asks developers to provide a waste management plan for any developments where communal bin stores are intended to be used, explaining how the waste will be managed and stored, how recycling will be facilitated and how collection will be facilitated.

If the roads are adopted then waste and recycling collections will take place on the development, providing the residents place containers at the boundary of their property, adjacent to the public highway. If our refuse and recycling collectors are to collect from inside communal bin stores, these need to be no further than 25 meters from the point on the adopted public highway that the collection vehicle can stop. If the bin store is further away than this, someone from the development would need to bring the communal bins to a point 25m from the adopted public highway.

If the roads remain un-adopted on the site, we would not collect refuse and recycling from the properties, even if an indemnity is secured.

As a Unitary Authority, we are concerned that if the roads remain un-adopted that we will be unable to fulfil our duties as a Waste Collection Authority and may leave

ourselves open to legal challenge. We are also concerned about how the arrangement would continue over time as properties are sold and new residents seek waste and recycling collections from the local authority.

Historic England:

Historic England has concerns regarding the applications on heritage grounds. The council should ensure that they have sufficient information by which they and their heritage advisors can assess the impact of the wider development, with particular reference to the north-west, on the setting of the historic complex and its contribution to significance.

Due to the lack of justification for the proposed increase in scale of the new additions to the complex, the council in discussions with their heritage advisor and the applicant should explore ways in which the scale and bulk of these new additions can be reduced to ensure that they continue to make a positive impact to this highly significant complex of buildings.

The council should also secure the on-going management of the grade II* listed Oratory, including its maintenance, repair and interpretation through the planning application. This will ensure the building has a sustainable future.

In determining these applications you should bear in mind the statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.

Torbay Council Interim Heritage Advisor:

This scheme has been the subject of considerable negotiations over a long period, with a view to reaching a proposal which could reasonably receive a recommendation of approval. This has also involved consultation with the previous conservation officer.

I am pleased that the latest application has clearly been designed with a view to addressing the major issues identified in respect of the original application.

In terms of heritage context, the site has development over the years and is now of a somewhat mixed character. However there are some strong and important elements of heritage (including high quality non-designated assets) contained within the mix, these include designated heritage assets in the form of listed buildings.

The application includes an assessment of heritage (including archaeology) which suitably considers all of the designated and non-designated heritage assets on the site and their setting where appropriate. The impact on some of the settings are further helpfully covered by illustrations of before and after viewpoints. The submitted Planning Statement also provides a useful summary of the potential heritage impacts and assessments.

In my view whilst providing a new context for the heritage assets involved the design has been carefully considered and is of a high quality. Whilst there are numerous detailed considerations, in my opinion the overall scheme strikes a suitable balance which will help to restore the site back to an economic use and ensure that the heritage assets have a sustainable future, or at the very least are repaired to enable a reuse to be found in the longer term. The settings of the heritage assets was a concern expressed by Historic England, however, I consider that the additional material supplied by the applicant helps to clarify that whilst the setting will change this has been handled with care to ensure that the impact is limited.

In conclusion, I consider that the scheme has been well researched and designed and in terms of heritage impacts a suitable balance has been achieved where overall the outcome in terms of heritage could be said to be neutral. Any negative overall impacts arising would in my view fall within the less than substantial harm category.

The development should be subject for the usual range of standard conditions applicable to works involving heritage assets, including details of all new material, with sample panels of materials to clarify finishes, pointing and pointing mix, and fenestration and joinery details including sectional drawings indicating reveals at an appropriate scale. The landscaping of the site will be critical to the success of the scheme, not least in terms of ensuring that the setting of the heritage assets are protected and enhanced. The submitted details indicate that landscaping has been carefully considered to date, and as such any conditions should ensure that the restoration elements are suitably phased to ensure that they are delivered in a timely manner.

Devon County Archaeologist:

Recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

Natural England:

Lyme Bay and Torbay SAC:

Subject to the mitigation measures being secured no objection in terms of likely impact upon the SAC.

Marine Conservation Zone

Subject to the mitigation measures being secured no objection in terms of likely impact upon the MCZ.

SSSI

No Objection' with regard to National Sites subject to appropriate mitigation being secured.

General ecology:

Defer to standing advice.

Torbay Council Ecology Advisor:Lyme Bay and Torbay SAC Impacts:

The mitigation measures as outlined in Section 17 of the Authority's HRA/AA will ensure that likely significant effects on Lyme Bay and Torbay SAC are avoided. The various mitigation measures will be secured through conditions and/or appropriate clauses in the Section 106 Agreement attached to any planning consent. It is therefore concluded that subject to implementation of mitigation this proposal will not have an adverse effect on the integrity of the Lyme Bay and Torbay SAC alone or in combination with other plans or projects.

Marine Conservation Zone Impacts:

No adverse effects are predicted by the applicant as a result of the construction or operation of the development. The proposed drainage strategy confirms there would be no resulting discharge of untreated effluent to the environment. Any potential recreational effects are to be managed by way of a strategic mitigation contribution on a per dwelling basis.

In view of the above measures, secured by condition, the competent authority concurs with the applicant's MCZ assessment and concludes that there would be no significant risk that the proposed development would hinder the conservation objectives of the Torbay MCZ as a result of changes to surface water quality, or through an increase in recreational pressures.

SSSI considerations:

Natural England in its consultation of 27 April 2020 advised 'No Objection' with regard to National Sites subject to appropriate mitigation being secured. In order to mitigate these adverse effects and make development acceptable, the avoidance and mitigation measures proposed within the Ecological Impact Assessment will need to be secured with appropriately worded planning conditions.

Biodiversity

Based upon the findings of the submitted assessment documents and subject to strict compliance with the proposed mitigation and enhancement measures it is considered there would be no significant long-term negative effects on biodiversity and geodiversity receptors in accordance with relevant legislation and policy.

Police Designing Out Crime Officer:

It is appreciated that the Highways Authority will be fully consulted on the above proposal but from a policing perspective it is respectfully requested that prior to determination the parking provision, particularly for the apartments, is carefully considered to ensure that it is sufficient and practical and convenient to use, to prevent unplanned parking elsewhere, as it is the 'elsewhere' that has real potential in creating parking related problems, upset and angst due to inconsiderate and/or obstructive parking, not just for the proposed development but also for the nearby existing neighbourhood.

Apartments

With the above said the parking provision of just one space for each apartment is concerning given that 56 of the apartments have 2 bedrooms and 2 apartments have 3 bedrooms, as such it is likely that some of these dwellings could easily attract more than one vehicle.

The location of mail boxes in the front entrances of the apartment blocks are noted but as tradesperson buttons are no longer supported due to an increase in crime and antisocial behavior.

Communal mail delivery facilities within building entrances serving multiple flats or rooms should be designed to incorporate the following:

- Located at the primary entrance/exit point of the building within view, within an internal area covered by CCTV or located within a secure access controlled entrance hall, or externally at the front of the building within view of those using the building;
- Be of robust construction;
- The individual letter boxes shall have a maximum aperture size of 260mmx40mm;
- Have anti-fishing properties;
- Have fire resistance where considered necessary;
- Installed in accordance with the manufacturers specification.
- Building access strategy to account for residents who will rely on others to collect their mail.

Letter boxes certificated to Door & Hardware Federation Technical Specification 009 (TS 009) offer reassurance that all of the above attributes have been met.

With regard to individual apartment door sets please note the foreword in the attached Secured by Design 'A Guide For Selecting Flat Entrance Door sets' which *states "Following the tragedy of Grenfell Tower in June 2017, several not for profit organisations with expertise in door sets and fire safety have come together to provide guidance that will explain what to look for in a flat entrance door set, how this relates to latest advice supplied by Government (MHCLG) and why third-party certification of fire door set manufacture, installation and maintenance is a critical part of fire protection"*. The guidance only applies when specifying, purchasing, or installing new door sets.

It is recommended that all external entrance doors for all dwellings and all individual apartment doors are sourced as tested and certificated products.

Sport England:

The proposed development does not fall within either our statutory remit, therefore Sport England has not provided a detailed response in this case.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Residential Development
2. Design and Visual Impact

- 3. Heritage Impact
- 3. Residential Amenity
- 4. Movement, Highway Safety and Parking
- 5. Ecology and Biodiversity
- 6. Drainage and Flood Risk
- 7. Other Considerations

1. Principle of Residential Development

1.1 In terms of the principle of a residential use Policy H1 of the Torbay Local Plan states that proposals for new homes within the built-up area will be supported subject to consistency with other policies in the Local Plan. In terms of the development the vast majority of the proposed housing is within the built up area and hence accords with the strategic direction of Policy H1, of steering development away from the undesignated sites in the countryside.

1.2 In terms of considering the element of the site that does not sit within the built up area it is necessary to consider the extent of development that is proposed to the north (coastal side) of the existing internal road, which is the defining linear feature. The land beyond this being designated as Undeveloped Coast and hence outside of the built up area. There are 7 detached dwellings and an element of one of the apartment blocks (and the associated road/s adjacent) located within the Undeveloped Coast. For information the extent of Apartment Block B that is within the Undeveloped Coast is approximately 20% of its footprint, which principally presents 3 apartments being within the Undeveloped Coast. This principally results in 10 residential dwellings in total, together with an associated road, as being proposed on land outside of the built up area and thus detached from the broad support presented within Policy H1 of the Local Plan. It should be noted though that 3 of these dwellings are on previously developed land though, where they replace in part existing hardstand tennis courts, and there is separate policy guidance towards supporting development on previously developed land within the Development Plan and the NPPF.

1.3 In regard to the broad principle of housing within the Undeveloped Coast Policy C2 of the Torbay Local Plan does not strategically endorse housing within the Undeveloped Coast and thus the scheme is considered to present some conflict with Policy C2. For information the policy cites support to conserve the character of the undeveloped coast and furthers that development will not be permitted in the undeveloped coastal area unless proposals satisfies 3 requirements, which are put simply to maintain the unspoilt character of the coastline, maintain or improve public access, and provide sensitively designed development where there are clear economic or sustainability benefits that cannot be realised in alternative locations. In regard to how the development responds to the 3 tests Policy C2 the extent of development is relatively contained and is presented in less sensitive locations in order to seek to maintain an open and undeveloped meadow and woodlands to towards the coastal side of the site. In regard to improving public access the proposal includes an offer of £25,000 to improve the adjacent section of the SWCP however officer opinion is that this cannot be secured as there is no demonstrable evidence/information from the Council's Natural Environment Services Team in order to satisfy the tests for obligations. Aside this the scheme does maintain an expansive open meadow and it is proposed that this should be conditioned in order to secure its public use, which

would improve access. In regard to the 3rd test although residential uses could be secured in other locations within Torbay the application is supported by a viability assessment that demonstrates that the amount of development proposed is necessary within this site. There is a balanced consideration to be made as to whether placing development within other areas of the site, that are not Undeveloped Coast, would actually be beneficial in terms of visual impact and delivering the wider benefits of the redevelopment.

1.4 In regard to further notable policy guidance on the principle Policy SS12 (Housing) reinforces that housing provision will focus upon a sustainable pattern of distribution with an emphasis upon the regeneration of brownfield sites and town centre sites, and development of urban sites. As a defunct school the site is clearly a 'brownfield' site, but it is one that includes areas that were not previously developed and as mentioned are designated as part of undeveloped coastal environment. In the circumstance as this is a site that holds extensive development, there is considered to be broad conformity with the aspirations of Policy SS12 in terms of reusing previously developed land, certainly in light of the sites location in a sustainable location close to established shops, schools and broader facilities.

1.5 In addition to the above policy there is also broad strategic support within Policy SS13 (Five year housing land supply) to consider housing applications favourably, consistent with other policies, where the supply of housing falls below the 5 year housing supply. This 'favourability' is currently activated as the Council can only currently demonstrate a supply between 2.5-3 years housing land supply, which is demonstrably below the supply expected.

1.6 More broadly Policy SS3 of the Local Plan outlines that the Council will take a positive approach in accordance with the presumption in favour of sustainable development contained within the NPPF. The Policy furthers that planning applications that accord with the policies in the Local Plan (and where relevant in Neighbourhood Plans) will be approved, unless material considerations indicate otherwise. It adds that where there are no policies relevant or where relevant policies are considered to be out of date* the balance is tilted further, stating that the Council shall grant permission unless material considerations indicate otherwise, taking into account whether adverse impacts of the development demonstrably outweigh the benefits or where specific policies in the NPPF indicate that the development should not gain planning permission.

(*This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites).

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

1.8 Having considered all the relevant strategic and strategic housing policies, in terms of the question of principle, it is considered that the development is in overriding accordance with the Development Plan when taken as a whole. It is clear that there is some conflict with the Development Plan in terms of seeking 10 residential units (11% of the total number) within the Undeveloped Coast. However the level of policy conflict is substantially lessened for 3 of the 10 units which sit on previously developed land (tennis courts), and any conflict should be weighed against other material considerations such as providing a use for listed buildings and boosting housing supply, which both carry significant weight.

1.9 On balance it is concluded that the conflict is limited, due to the limited amount of the overall development that is proposed within the Undeveloped Coast, and as stated above there is a much broader level of conformity with the strategic policy ambitions contained within the Development Plan in terms of seeking housing development and the redevelopment of brownfield sites. It should also be noted that having regard to the lack of a 3 and 5 year housing land supply the development plan policies most important for determining this application, which include Policy C2, Undeveloped Coast, are out of date.

2. Design and Visual Impact

Design

2.1 Achieving good design is a central thread within government guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). In terms of the landscape setting of the coastal context the NPPF provides advice in Para 170 that includes planning policies and decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and recognising the intrinsic character and beauty of the countryside, and maintaining the character of the undeveloped coast, while improving public access to it where appropriate. Para 130 offers that that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

2.2 In regard to the local Development Plan Policy TH8 of the Torquay Neighbourhood Plan cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. This is aligned with the general design policy within the Torbay Local Plan, where Policy DE1 seeks development to be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.

2.3 As a design response to the context the apartment blocks are between 4 and 5 storeys and are located in the area of the current ‘main block’ of school buildings. The location is considered well-judged in terms of providing relatively large buildings

in the location of the existing school block as this choice of location will help limit the perceived change in the landscape setting and character of the area. In terms of the detail the arrangement of the buildings is a relatively tight triangle which seeks to contain the expansion of development across the site, which is a welcomed concept. At the same time it is appreciated that the arrangement of the blocks is looser than the existing school cluster and it is apparent that this is to influence an acceptable residential environment in terms of distances between properties. The overall proposition is considered acceptable and presents a well-considered layout. The materials of the apartment blocks are a mix of stone at the lower floor, with middle floors of copper cladding, under a top floors that are recessed to varying degrees and largely glazed. The overall design ethos is one of modernity that is engrained with natural materials and tones that seek to reflect and integrate with the landscape setting of the site and wider coastal context. The design is deemed to be well considered and would present a high quality appearance to the apartment blocks, enhanced from that of the current, somewhat ad-hoc, institutional building group. The scale of the apartments is considered acceptable in-light of the limited increase in height over the current school building, notwithstanding their somewhat elevated location.

2.4 In regard to the new-build dwellings the 7 dwellings fronting the coastal meadow are to a more domestic scale. This chosen scale is supported in order for the dwellings to sit comfortably aside the edge of the site close to existing residential properties. The materials are natural with stone and timber elevations under grey standing seam roofs. The choice of materials is supported and will aid with setting the buildings into the landscape setting of the meadow. The arrangement with the roads on the coastal side of these properties is also considered to be a positive proposition as the openness of the frontages will provide a transition to the openness of the meadow rather than a more abrupt enclosure that often characterises the rear of residential properties. This orientation will also retain a public edge to the coastal environment which is a positive design solution in terms of the general engagement with the coast and the sense of place.

2.5 In regard to the remaining new-build properties these are interspersed within the landscaped grounds and generally have a scale of one or two storeys. The character of the properties are again modern with a natural materials palette that seeks to respond to the landscape setting. A number of these units sit on previously developed land including swimming pool and large greenhouses, which limits the degree of development within undeveloped areas of the site. The properties are well-spaced and through a combination of their limited scale and quality of materials, present suitably detailed infill units which would have little impact on the character of the site and wider area, thus protecting the character of the wider Urban Landscape Protection Area that spreads north-west to include Ilsham Meadow.

2.6 The final grouping of development is the historic quarter, which seeks a degree of demolition, extension and change of use of a number of listed buildings to form 7 dwellings. The concept is to provide a relatively enclosed group that holds its own identity built on the character of the historic buildings, contrasting from the modernity of the wider development. The enclosed courtyard approach is supported as a concept, as is the separation of the access from the wider development off the main access route. The design approach is considered successful and is supported.

2.7 When considering the proposal as a whole the scheme is considered well detailed and takes demonstrable steps to provide a high quality development that responds positively to the sensitive coastal context, the verdant inland slopes within the site, and the sites heritage assets. As such the proposal is considered substantially in accordance with design and heritage policies contained within the Development Plan and guidance contained within the NPPF.

Visual Impact

2.8 The proposals have been revised and amended since the pre-application stage and since the submission of an earlier application submitted in 2018 (P/2018/0472) in order to seek to overcome concerns over the extent of development within the site and particularly within the Undeveloped Coast, and the resultant visual impact of this.

2.9 The extent of development within the Undeveloped Coast has been reduced to 7 detached properties aligned along the southern boundary within the lower section of the site and close to established residential properties in the area. As previously discussed a proportion of Apartment Block B also sits in the Undeveloped Coast (20% of the building footprint). Proposals also remove the two sections of hardstand and lighting that currently sit within the open meadow and Undeveloped Coast which are presently detracting elements of previous development within the Undeveloped Coast.

2.10 The application is supported by a Landscape and Visual Impact Assessment which seeks to establish the extent of the effect of the proposals on landscape and visual amenity of the site and the surrounding landscape and townscape. Special attention has been paid in this assessment to the parts of the site covered by the Undeveloped Coast policy and the visual representation of the development proposed in these areas, which is welcomed.

2.11 The submitted Landscape and Visual Impact Assessment concludes that the proposal, as revised and reduced, has the potential to regenerate the area of the former Stoodley Knowle School while keeping the impact on the landscape and visual amenity to a minimum by the use of high quality design and the retention of the existing vegetation. The visual impact of the scheme is discussed below.

2.12 The apartment blocks are substantial but it is deemed that their wider visual impact will be limited due partly to the existing visual prominence of the current school block, the quality of materials and palette that appears to successfully break down the massing of the buildings whilst offering muted tones that respond more successfully to the context than the existing buildings, and the extent of immediate tree growth and the wider topography of the area. The impact from Ilsham Road will be limited with the additional height countered by the improved materials, presently a somewhat neutral impact. The visual impact from the south-east, where there are views across from Bishops Rise for example, will again present a relatively muted impact for similar reasons in terms of improved materials countering the slightly increase in scale. In regard to the views from the north around Walls Hill, a prominent public area, the land levels and vegetation will screen the development and hence there will be no apparent public views of the apartments. There has been some discussion about potential impact of light spill from the upper floors and the agent has submitted detail on glass Frits as a measure to limit the impact of internal lighting. This is welcomed however it

is recommended that the matter is scrutinised in more detail with an appropriately worded planning condition attached to the grant of planning permission, together with a no external lighting condition.

2.13 In regard to the new-build dwellings along the southern border of the site these as low-level domestic scaled buildings that sit aside the existing edge of residential plots. Their containment close to the southern border will retain the broader landscape setting and their location together with their scale will present a form of development with limited impact upon the character of the area.

2.14 In regard to the historic quarter the development proposals will have no demonstrable visual impact with areas of new-build countered by some demolition of existing extensions/buildings.

2.15 In regard to development closer to Ansteys Cove Road the walled gardens dwellings are suitably scaled and formed and would not demonstrably alter the verdant character of the wooded inland slopes. The limited level of infill is hence considered acceptable and would maintain the sites contribution to wider Urban Landscape Protection Area.

2.16 When considering the proposal as a whole the scheme is considered well detailed and takes demonstrable steps to provide a high quality development that responds positively to the sensitive coastal context, the verdant inland slopes within the site, and the sites heritage assets. As such the proposal is considered substantially in accordance with landscape and visual impact aspirations of relevant policies contained within the Development Plan and guidance contained within the NPPF.

3. Heritage Impacts

3.1 In terms of the local Development Plan Policy TH10 of the Torquay Neighbourhood Plan cites that alterations to Listed Buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. In doing so, proposals which at the same time contribute to providing a sustainable economic future for such buildings will be particularly supported. In regard to the Torbay Local Plan it guides that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1), and Policy SS10 requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance.

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

designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

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

3.4 In regard to designated heritage assets there are a number of listed buildings arranged within a tightly knit group towards the southern boundary of the site. The building group includes the Ilsham Manor Oratory, a small three-storey building with a Grade II* Listing status, the outbuildings to northwest of the Oratory, which are Grade II Listed, and the outbuilding to southeast of the Oratory, which are again Grade II Listed.

3.5 This scheme has been the subject of considerable negotiations over a long period which commenced at pre-application stage and included the consideration period of an earlier application submitted in 2018, and continued through the consideration period of this application.

3.6 The application includes an assessment of heritage (including archaeology) which suitably considers all of the designated and non-designated heritage assets on the site and their setting where appropriate. The impact on some of the settings have been more recently explored through the submission of illustrations of before and after viewpoints, which sought to address comments made by Historic England.

3.7 The proposed development is extensive and will serve to change the character of the site however, in doing so the proposals removes elements which are unsympathetic and involves a mixture of new build of a contemporary style and the conversion and re-use of existing buildings on the site. It is concluded that whilst providing a new context for the heritage assets the proposals are well considered and are of high quality and strikes a suitable balance which will help to restore the site back to an economic use and ensure that the heritage assets have a sustainable future, or at the very least are repaired to enable a reuse to be found in the longer term.

3.8 The settings of the heritage assets was a concern expressed by Historic England, however additional material has been supplied by the applicant and considered by the Authority's interim heritage advisor, who concluded that whilst the setting will change it has been handled with care to ensure that the impact is limited.

3.9 In conclusion it is considered that the scheme, in terms of heritage impacts, delivers a suitable balance where the overall outcome in terms of heritage are potentially neutral or fall within the less than substantial harm category. If the cautious view is taken Para 196 of the NPPF provides guidance in that "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*". As detailed within this report there are demonstrable benefits that would arise from the proposal, principally through the reuse of previously developed land and the provision of housing.

3.10 Any grant of planning permission should be subject to such as detailed materials and finishes. In addition in regard to Archaeology a condition should be attached to secure a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest.

3.11 The above conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

4. Residential Amenity

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

Future occupiers

4.2 In respect of future occupiers the internal living spaces are generously scaled and accord with the minimum space standards outlined within Policy DE3 of the Torbay Local Plan. The units also all benefit from adequate outlook and will receive adequate levels of natural lighting to key living spaces. In regard to outdoor amenity space the dwellings are all afforded generous gardens that exceed the 20sqm expected within the Torquay Neighbourhood Plan and the 55sqm stated within the less recent Torbay Local Plan, and hence there is no conflict with either standard. The exceedance would appear reflective of the edge of settlement and landscape dominated character so are supported, with no concern on potentially managed “under-development” of the site. In regard to the apartments a number are afforded private outdoor space through terraces and balconies, which is a provision aside the wider use of the retained meadow and other landscaped areas around the building and to the north of the site. The Development Plan seeks a minimum of 10sqm per flat/apartment which can be provided individually or communally. The amenity space proposition for the apartments is considered to accord with policy guidance with extensive amenity space within the site retained for use together with various units being afforded some private space. The use of the meadow as amenity space should be secured by a planning condition to ensure this additional provision is provided and maintained for recreational purposes.

4.3 In light of the above the overall residential environment for future users is considered to be of high quality, in accordance with Policies DE1 and DE3 of The Local Plan and guidance contained within the NPPF.

Adjacent Occupiers

4.4 In respect of neighbouring amenity the relationship across the southern border is the key point where a number of properties sit adjacent.

4.5 In regard to the proposed access it is considered that the impact of vehicular traffic using the main route into and out of the site is unlikely to present any demonstrable impact upon adjacent occupiers. The use of the site for residential purposes presents a form of use that is compatible with the adjacent plots and general residential character of the area, which in certain ways will be less impacting than the previous education use for the site.

4.6 In regard to the residential element of the development the two dwellings to the east of the access point (plots 11 and 12) have been revised in order to address concerns on the potential overlooking into adjacent plots, as although the building are set at an oblique angle they are set in relatively close proximity to the joint border and are on higher ground. The revisions, which remove the rear-facing upper floor gallery window and the rear-facing balcony below is considered to adequately address the concerns where there is also a substantial tree lined border. To the west of the access point the 5 properties (plots 6-10) are considered suitably distanced from the 3 dwellings the sit to the south of the existing shared road, where they are set between 14-19m from the front of the adjacent plots and around 22-29m from the buildings. The distances are considered adequate to protect the amenity of the adjacent occupiers in terms of the created back-to-front relationship that it would create across a road. To the south of the same 3 dwellings the works to the historic quarter are also considered to have a limited impact upon amenity afforded occupiers due to the limited extent of change to the scale and form of buildings in this particular area of the site. In regard to the proposed Tithe Barn although the building is in relatively close proximity to the adjacent residential plot, where it faces the end section of the rear garden, the likely relationship is not considered unacceptable as the existing high hedge, that looks in good order, presents a significant screen to the rear garden. Further south the historic quarter will not present any form of sensitive development to the 'outward' face of the site to properties adjacent, where the development proposes to largely utilise existing buildings and proposes some significant demolition that reduces the extent of development in this location. The final building that is proposed to the southern border near to properties is a new build dwelling that will be served off Ilsham Close. This building is set within generous grounds and would not impact the level of amenity afforded neighbouring occupiers.

4.8 To conclude, for the above reasons the proposed residential environment would appear adequate and the development would not unduly impact the level of amenity afforded neighbouring occupiers, which presents development that accords with Policies DE1 and DE3 of The Local Plan and guidance contained within the NPPF.

4. Movement, Highway Safety and Parking

4.1 Para 108 of the NPPF guides that when assessing developments it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be (or have been) taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; and (c) any significant impacts from the development on the transport network (in terms of capacity and

congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Para 109 of the Framework confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

4.2 In regard to the local Development Plan Policy TA2 of the Torbay Local Plan states that all development should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided. Policy TA3 and Appendix F of the Torbay Local Plan provides key policy guidance for parking within development with houses having an expected requirement of 2 spaces per dwelling and apartments of 1 space, with some degree of visitor parking. There is further advice on the provision of disabled parking and electric charging points. The Neighbourhood Plan supports levels of car parking aligned with those outlined within The Local Plan through Policy TH9.

4.3 In regard to access and general movement the development seeks to utilise the existing eastern-most access off Ilsham Marine Drive as the sole vehicular access, with the nearby access off Ilsham Close utilised solely for one of the dwellings, and the access off Anstey's Cove Road used for pedestrians and cyclists and to act as an a secondary emergency access. There is a degree of local concern regarding the use of the lane as the point for vehicular access however the highway authority have not raised a concern on this matter. With support from the highway authority and considering that the previous use of the school would have generated a demonstrable level of traffic movement into and out of the site, including some substantial peaks in traffic due to the nature of school movement patterns, the general access arrangement is considered acceptable. It is noted that the highway authority did request some works to the junction to improve the surfacing and delineation of the highway and junction, and that these improvements have been secured via revised plans. There are 2 pedestrian access points with a footpath provided adjacent to the main vehicular access that will serve the development off Ilsham Marine Drive and a secondary dedicated foot and cycle access off Ansteys Cove Road. This level of connectivity is considered acceptable for non-car modes of travel and will also provide a second access for emergency vehicles. Considering policy aspirations to promote sustainable modes of transport it is recommended that a revised and updated Travel Plan and Implementation Strategy with SMART targets is secured via a planning condition to seek to meet Policy TA2 requirements (30% modal shift to foot, cycle and public transport), which should include appropriate mitigation measures should the targets not be met.

4.4 In regard to internal movement within the site generally for development of this scale the local highway authority would seek that the roads and footpaths are built in full accordance with the Torbay Highway Design Guide for New Developments, in order to enable the progression of an adopted road layout. In this instance there has been extended discussion over the course of the application, the previous application and the earlier pre-application, in regard to how a less engineered, visually softer, road design could be delivered to benefit the coastal setting in terms of limiting the visual impact of the roads and other aspects, such as street lighting. The current

road/footpath layout, which has been amended to secure improved designated pedestrian movement adjacent to the main access road for the development, is considered a positive solution to align with the coastal environment with low level street lighting, whilst securing a scheme that would not result an unacceptable impact on highway safety. The highway authority do not object to the solution but have advised that they would not adopt the road network. In terms of responding to a non-adopted network it is considered necessary to secure by condition that the network be built to adoptable standards where possible, and to secure details of ongoing management and maintenance in order to safeguard the residential environment in the longer term, where the highway authority will not be responsible for the upkeep of the roads. In addition a non-adopted road network will also present a knock-on effect on waste collection and a private collection service will be required as the local authority will not collect from new development where the roads are not adopted. It will hence be necessary to secure by planning condition a waste management plan indicating recycling and waste collections methods in the absence of agreement to adopt the roads.

4.5 In regard to parking facilities all dwellings are provided with at least 2 car parking spaces, which is compliant with the expectations outlined within the Torbay Local Plan and the Torquay Neighbourhood Plan. In regard to the 68 apartments there are 93 parking spaces located in-and-around the three blocks, which also serve the 2 dwellings within the adjacent converted villa building. The level of parking accords with the 1:1 parking expectation whilst providing a generous level of overspill / visitor parking. In order to provide clarity on visitor parking it is suggested that a planning condition should ensure that all parking beyond the policy expectation should be demarked as visitor parking and that 2 spaces be allocated for each of the dwellings contained within the adjacent villa. In regard to the form of parking the Local Plan seeks a parking provision for disabled persons of up to 10% in development. The proposed layout shows 3 disabled parking spaces and this has not been raised as an unaccepted level by highway colleagues. Notwithstanding this position it is considered that the currently provision is relatively limited to duly service both occupiers and visitors that may require the use of larger disabled parking spaces. In light of this it is considered pertinent to apply a planning condition seeking a detailed parking plan for disabled spaces that adequately serves both occupiers and visitors. This is expected to increase the demarked provision of spaces and potentially focus the provision on unallocated spaces. In terms of other specialised parking services the local plan seeks that new flatted development should deliver 20% of available spaces with electric charging facilities. This aspiration should be delivered through a planning condition.

4.6 Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF, subject to the conditions discussed above.

5. Ecology & Biodiversity

5.1 Policy NC1 of the Torbay Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. 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 (Para 170).

5.2 In regard to context the site is close to the Lyme Bay and Torbay Special Area of Conservation (SAC), which is a marine designation of international importance, and also the Torbay Marine Conservation Zone (MCZ), again a marine designation but one which is of national importance. Further to these marine environments the Hope's Nose to Wall's Hill Site of Special Scientific Interest (SSSI) runs adjacent to the northern boundary of the Site and comprises of a coastal habitat that is again of national importance. In regard to the site itself there are two *Other Sites of Wildlife Interest* (OSWI) which are of local importance which are principally based around the woodland habitat within the north-western corner of the site and woodland at the eastern edge of the site, away from the development areas proposed.

5.3 In terms of relevant supporting information the application is accompanied by an ecological assessment that has been informed by various targeted ecology surveys. The application is also supported by a shadow Habitat Regulations Assessment (HRA) and Shadow MCZ Assessment that seeks to address likely significant impacts on the somewhat interconnected international and national designated marine environments near to the site.

5.4 In regard to potential impact upon the adjacent marine-based SAC the council has undertaken the necessary HRA in consultation with Natural England, which has concluded that there would be no likely significant effect subject to appropriate mitigation being secured. The mitigation includes measures proposed by the applicant within the submitted ecology reports and drainage strategy re the implementation of the submitted CEMP (Ecology) (Green Ecology, 2020a) and LEMP (Green Ecology, 2020b), together with a proposed Mitigation Payment, secured on a per dwelling basis. This would be secured towards the appropriate management of cumulative recreation impacts to ensure development will not adversely affect the SAC integrity. It is proposed the payment will be secured by legal agreement and set at a £90 per dwelling contribution towards mitigating the impact of increased recreational pressures on Lyme Bay and Torbay SAC. The payment, as concluded within the MCZ Assessment, would also mitigate potential recreational impacts upon the MCZ, which has some related features to the SAC. This is also supported by Natural England following consultation on the Council's assessment.

5.5 In regard to the adjacent SSSI Natural England in its consultation of 27 April 2020 offered no objection with regard to National Sites subject to appropriate mitigation being secured. The Council's ecology advisor has considered these comments aside the supporting ecological information and advised that the mitigation

outlined within the Ecological Impact Assessment would duly address the issue, which should be secured by appropriately worded planning conditions.

5.6 In regard to the local designations and broader ecology issues the submitted ecological assessment, and proposed construction and management measures, include a list of mitigation measures to address broad ecology impacts. These measures include tree protection measures, the planting of over 100 new trees, the creation of species rich grassland and hedges, compensatory bat roosts and additional bat boxes beyond these, and bird boxes as physical measures beyond sensitive lighting, construction and operational measures to limit any impact on ecology. The Council's ecology advisor has considered the broader ecology impact and supports the proposed mitigation in order to duly manage the broader ecology impacts of the development.

5.7 Having considered the submitted assessments, subject to the recommended conditions and financial mitigation outlined within the Council's HRA and MCZ Assessment, and the broader conditions to address wider ecology aspirations, the development is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of The Local Plan, the Torquay Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

6.1 National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 163). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 165).

6.2 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, which is aligned with guidance contained within the NPPF. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers. The Torquay Neighbourhood Plan is principally silent on drainage in terms of direct policy guidance

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

6.4 A Flood Risk Assessment and detailed drainage proposal has been submitted to support the application and identifies that surface water drainage from this development will be dealt with using a number of different techniques, including communal soakaways, attenuation ponds and a controlled discharge to a combined sewer off the site.

6.5 The Council's drainage engineer has considered the drainage proposals in

detail and following the receipt of further information in April 2020, which followed a number of issues raised in terms of absent information, the subsequent revised surface water drainage details are considered acceptable.

6.6 Providing the surface water drainage is constructed in accordance with the latest drawings and the submitted hydraulic modelling, there is no objections to planning permission being granted for this development. The proposal is for the reasons above considered in accordance with Policies ER1 and ER2 of The Local Plan and advice contained within the NPPF.

7. Other Considerations

Viability

7.1 The development appraisal shows a developer's profit which is lower than the market norm. For a scheme of this nature it is generally expected for the profit to be at the higher end, partly to counter the greater risks associated with larger proposals. The independent viability appraisal concluded that the profit would have to increase significantly before it reaches the threshold where contributions, such as affordable housing, could begin to be justified on grounds of viability.

7.2 The conclusions of the independent viability appraisal appears to suggest that the amount of development sought is necessary, and thus that the degree of incursion into the Undeveloped Coast is necessary in order to present a viable scheme.

7.3 To resolve the policy tension previously outlined within this report by seeking no development within the Undeveloped Coast it would appear necessary for any subsequent scheme to present a greater degree of development elsewhere within the site. This would possibly result in a denser scheme, and/or one that would possibly require additional height in terms of the apartment blocks. Either of these options are likely to present their own issues in terms of resolving an acceptable form of development within what is a relatively sensitive site.

7.4 The conclusions of the viability assessment should be considered as a material consideration in terms of forming a balanced view on the scheme as whole, which includes a degree of development coming forward within the Undeveloped Coast in conflict with Policy C2 of the Torbay Local Plan.

Housing Supply

7.5 The Council cannot currently demonstrate a 3 or 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan when considered as a whole. As stated within this report the development is largely proposed on previously developed land and land within the built up area.

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

7.7 The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate between a 2.5 - 3 year supply, which is a significant shortfall.

7.8 It is concluded that there is some discordance with the Development Plan however this discordance is considered limited when the Development Plan is considered as a whole. Were this judgment different and the proposal considered to conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. Development Plan policies most important for determining the application are also considered to be out of date. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As offered in this report any harm is considered limited and thus the adverse impacts are not significant and demonstrable in this context, and the tilted balance in favour of granting permission should apply.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development

In respect of the economic element of sustainable development the balance is considered to be in favour of the development

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

In addition to the above the proposal delivers viable future uses and future management (The Oratory) for a number of listed buildings, which are designated heritage assets. The heritage value of this is considered a social benefit.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape in particular the Undeveloped Coast, ULPA; ecology and bio-diversity and surface and foul water drainage. These matters are considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. Moreover, those 'benefits' have to be set against the loss of an area of open greenspace, leading to a change in the local environment and landscape. These impacts are not considered to be significant however.

The proposed development is in a sustainable location inasmuch as it borders and forms a part of the existing urban area and is located in close proximity to local amenities and good public transportation links.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent sustainable development.

Local Finance Considerations

S106:

Affordable Housing

Policy H2 of the Torbay Local Plan identifies that development of brownfield sites for schemes of 20+ dwellings should deliver an affordable housing target of 20%, and that the development of greenfield sites for schemes of 30+ dwellings should deliver an affordable housing target of 30%. The development is principally delivered on the brownfield part of the site with only 4 dwellings delivered on greenfield land.

Following an independent viability assessment it has been concluded that the development cannot justify affordable housing contributions on the grounds of viability. It was noted that as this site is located in a particularly sought after residential area it is suggested that the authority consider a deferred contributions mechanism, secured via a s.106 agreement, to ensure that developer contributions could be collected if the sales values are higher than that recorded in the viability appraisal.

In terms of progressing the above in-line with government guidance credit (i.e. reduction) against the affordable housing should be given by the authority for the existing vacant floor-space. In accordance with the viability assessors conclusions

and recommendation, towards establishing a deferred obligations clause within a legal agreement to enable a review of the scheme's financial ability to deliver affordable housing, it is further recommended that any such deferred obligations clause presents an adjusted upper limit for any retrospective delivery of affordable housing payment, responding to the appropriate level of *Vacant Building Credit*.

Ecological Mitigation

In regard to potential impact upon the adjacent marine-based SAC and MCZ a Mitigation Payment, secured on a per dwelling basis, towards appropriate management of cumulative recreation impacts to ensure development will not adversely affect SAC integrity or MCZ. It is proposed the payment will be secured by legal agreement and set at a £90 per dwelling contribution towards mitigating the impact of increased recreational pressures on Lyme Bay and Torbay SAC, towards Torbay Coasts and Countryside Trust's Coast Wise Initiative or other such scheme that would secure the necessary level of mitigation as may be identified.

Sustainable Development Obligations

Major development that is not CIL Liable (as in this case) should be subject to the provisions of the Councils Planning Contributions and Affordable SPD in order to deliver necessary mitigation in terms of community infrastructure. The SPD outlines obligations towards the following;

- Greenspace and Recreation
- Sustainable Transport
- Education
- Lifelong Learning
- Waste and Recycling

As discussed above the development has been subject to an independent viability assessment that has concluded that there a substantial gap in terms of the current profitability level and the level where affordable housing or other obligations could be secured. In regard to addressing this issue it is proposed, similar to the affordable housing provision, that deferred obligations clauses for the matters above should be secured within any accompanying S106 to a policy compliant level. It is noted though that the SPD states a priority towards securing affordable housing and hence any such legal agreement will be tiered with affordable housing obligations sought prior to Sustainable Development matters.

CIL: The development would not be CIL liable. The site sits within CIL Charging Zone 3 and residential schemes of 15 or more dwellings within Charging Zone 3 will not be charged CIL.

EIA/HRA

EIA:

The local planning authority is required to determine whether a project is of a type listed in Schedule 1 or Schedule 2 of the 2017 Regulations. If the development is listed in Schedule 1 an Environmental Impact Assessment is required in every case.

If the development is listed in Schedule 2, the local planning authority should consider whether it is likely to have significant effects on the environment.

The development is listed in the first column in Schedule 2 of the 2017 Regulations as an urban development project (10b) and it exceeds the relevant thresholds and criteria in that the overall area of the development exceeds 5 hectares. The project therefore needs to be screened by the local planning authority to determine whether significant effects on the environment are likely and hence whether an Environmental Impact Assessment is required.

The screening concludes that 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:

A Habitat Regulations Assessment / Appropriate Assessment has been carried out for this development on consultation with Natural England.

It is concluded that the proposed development is unlikely to have a significant effect on the South Hams SAC or the Lyme Bay and Torbay SAC. Due to the proximity of the development to the coastline and the marine environment of the Lyme Bay and Torbay SAC it is concluded that mitigation to respond to additional recreational pressures should be secured. Natural England have been consulted and concur with the Council's conclusions. A Payment of £90 per dwelling is proposed.

Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC, subject to the conditions proposed in this report and subject to securing the proposed mitigation measures.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. As the Council cannot currently demonstrate a 5 year housing land supply the supply of housing should carry significant weight. There is a degree of conflict with Policy C2 in terms of providing residential development within the Undeveloped Coast, however this conflict should be balanced with the significance of any impact, which is considered minor when considering the amount of development, its location within the less sensitive areas of the site, and also the level of screening present from the wider landscape and topography of the area. This presents development with limited harm. With this conflict and harm considered to be limited aside a broader level of harmony with the Development Plan, and the NPPF when considered as a whole, it is deemed to provide a proposal that is acceptable on balance.

Statement on Human Rights and Equalities Issues

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act

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

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

Proactive Working

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

In this instance substantial amendments have been secured prior to the submission to reduce the extent of development within the Undeveloped Coast in order to reduce its resultant impact upon the coastal setting, together with securing additional information to address concern regarding potential impact upon the setting of the listed buildings, and design changes to improve the level of retained amenity on the southern border to the east of the access. It is now concluded that this application is now acceptable for planning approval.

Conclusions and Reasons for Decision

The proposal is considered to present an acceptable redevelopment of a defunct school site with a well-considered layout and form of development that limits any resultant impact upon the coastal context and landscape character.

The form of the development and the choice of materials and supporting landscaping will present of high quality development that responds to the design aspirations of the Development Plan and the NPPF.

There would be no unacceptable impacts upon the highway safety or neighbour amenity, and ecological mitigation has been established to ensure that there are no undue impacts or significant effects upon designated habitats, subject to securing adequate mitigation through the use of planning conditions and through securing financial mitigation as identified.

Although the site is not identified for housing within the Development Plan the provision of housing is considered an acceptable use where there is an established residential character adjacent. In addition in light of the Council's current shortfall in terms of its 5-year housing land supply the housing provision also presents significant benefits in terms of housing provision, which carries significant weight in favour of the application.

As detailed within the report there is a degree of discordance with the Development Plan in terms of some encroachment into the Undeveloped Coast. However as discussed in the report there is viability evidence that supports that the amount of development currently proposed is necessary to secure a viable scheme. This evidence supports a positive consideration of the proposal, as a necessary element to bring forward the wider and substantially significant benefits of housing supply, redevelopment of a brownfield site, and securing viable uses and future management of numerous heritage assets. Importantly in the balancing exercise and as detailed in the report the encroachment within the Undeveloped Coast is not expected to result in significant impacts in terms of the wider landscape setting. In the circumstance therefore, notwithstanding this discordance, there is for the reasons stated within this report a much broader level of accord with the Development Plan that Members should consider as part of the balancing exercise.

Officers consider the impact of some development within the Undeveloped Coast does not warrant refusal of the application. Having regard to the lack of 5 year housing land supply Policy C2 of the Torbay Local plan which seeks to protect the Undeveloped Coast is out of date so carries limited weight.

In-line with the above conclusions and the detail contained within this report the proposals are considered to be in general accord with the provisions of the Development Plan. The NPPF states that development proposals that accord with an up-to-date development plan should be approved without delay. In the absence of material considerations that weigh sufficiently against the proposal the Officer recommendation is one of approval, subject to suitable conditions and S106 Legal Agreement.

Officer Recommendation

Approval: Subject to;

1. Planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency and;
2. The completion of a S106 Legal Agreement to secure a review of Affordable Housing provision and other identified obligations, to include the provisions outlined within the report on terms acceptable to Officers.

With the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director responsible for Planning, including the addition of any necessary further planning conditions or obligations.

Proposed Conditions:

Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning

authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

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

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012- 2030. This pre-commencement condition is required to ensure that neighbour amenity is duly protected.

Written Scheme of Investigation

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

CEMP

The development shall proceed in full accordance with the submitted and approved Construction Environmental Management Plan (Green Ecology, March 2020).

Reason: In order to protect ecology and designated ecological sites in accordance with to accord with Policies ER1, ER2, NC1, SS8 and C2 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

LEMP

The development shall proceed in full accordance with the submitted and approved Landscape and Ecological Management Plan (Green Ecology and Redbay Design, March 2020);

Reason: In order to protect the visual character of the area, ecology and designated ecological sites, in accordance with to accord with Policies C2, ER1, ER2, NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Ecology Mitigation Measures

The development shall proceed in full accordance with the submitted and approved Ecological Impact Assessment (Green Ecology, 27 February 2020)

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Woodland Management

The development shall proceed in full accordance with the submitted and approved Woodland Management Plan (Advanced Arboriculture; Dated 24TH September 2019).

Reason: In order to protect the visual character of the area and ecology, in accordance with Policies C4, NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Tree Protection

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

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

Landscaping

Prior to the first occupation of the development hereby permitted full details of all proposed soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of visual character of the area and undeveloped Coast in accordance with Policies DE1 and C2 of the Adopted Torbay Local Plan 2012-2030.

Landscape implementation

All planting, seeding or turfing comprised in the approved details shall be carried out in the first planting and seeding season following the occupation of the buildings, or at such other time as agreed by the Local Planning Authority in writing, and any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

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

Drainage

Prior to the first occupation of any dwelling the surface water management system serving that dwelling shall be provided in full, in accordance with the submitted surface water drainage strategy submitted on the 23rd April 2020 and plans reference PDL-101 Rev F, PDL-102 Rev B, PDL-103 Rev A and PDL-104 Rev B, unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority. The surface water drainage system shall be maintained as such for the lifetime of the development.

Reason: In the interests of adapting to climate change and managing flood risk, and to ensure no significant effect on protected marine sites, in order to accord with Policies ER1, ER2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Highways 1

Construction of the internal roads and footpaths within the internal layout shall be in accordance with the Torbay Highways Design Guide for new developments where possible.

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

Highways 2

Prior to the first occupation of the development a Road Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which shall seek to ensure that there is an appropriate scheme of maintenance and which ensures a minimum clear way is maintained at all times for delivery and emergency vehicles.

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

Highways 3

In the absence of an agreement between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of the estate roads prior to the first occupation of the development, a Waste Management Plan indicating recycling/waste collection methods shall be submitted to and approved in writing by the Local Planning Authority. Any approved Waste Management Plan shall be implemented in full at the first point of occupation of the development and sustained at all times thereafter to deliver the necessary waste collection and recycling services to serve the development.

Reason: To ensure satisfactory waste collection services in accordance with Policies W1 and W2 of the Torbay Local Plan 2012-2030.

Highways 4

Prior to the first occupation of the development a revised and updated Travel Plan and Implementation Strategy with SMART targets to seek to meet Policy requirements of 30% modal shift to foot, cycle and public transport), with appropriate mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure sustainable travel modes are duly promoted, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Highways 5

Prior to the first occupation of the development the required minor alterations to the access onto the public highway shall be agreed and implemented under an appropriate licence from the Highway authority.

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

Parking provision 1

Prior to the first occupation of any dwelling the parking facilities hereby approved to serve that dwelling shall have been provided in full. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Parking provision 2

Prior to the first occupation of the apartments the parking spaces hereby approved (including the approved disabled space and charging points approved pursuant to separate conditions) and the manoeuvring areas have been provided in full. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Parking 3

Notwithstanding plans hereby approved prior to the first occupation of the apartments details for the provision of disabled parking that duly responds to the aspirations of a 10% provision shall be submitted to and approved in writing by the Local Planning Authority.

The parking spaces approved shall be implemented and made available for such use and retained thereafter for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Parking 4

Prior to the first occupation of the apartments no less than 20% of the associated parking spaces shall be provided with electric charging facilities. The facilities shall be retained at no less than 20% at all times thereafter unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: To secure appropriate levels of electrical charging points in accordance with Policy TA3 of the Torbay Local Plan.

Cycle provision

Prior to the first occupation of any dwelling or apartment block the cycle store facilities to serve that dwelling or apartment block, as detailed within the approved plans, shall be completed and made available for the purpose of cycle storage to serve the development. Once provided, the storage arrangements shall be retained for the life of the development for such purposes.

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

Waste provision

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

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

PD

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

Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority;

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

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development in accordance with Policies SS10, C2, DE1 and DE3 of the Torbay Local Plan 2012-2030.

External Lighting:

Prior to the first use of the development an external lighting plan, which responds to the strategy outlined within the submitted preliminary lighting strategy and impact assessment (March 2020 (Redbay Design)).

The development shall proceed in full accordance with the approved lighting plan and no additional external lighting shall be incorporated within the development.

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development in accordance with Policies SS10, C2, NC1, DE1 and DE3 of the Torbay Local Plan 2012-2030.

Oratory Management

The development shall proceed in full accordance with the details submitted by AC archaeology in terms of protection measures during the construction phase for the Oratory (Letter Dated 18th March 2020).

Notwithstanding the detail within the letter regarding long-term management prior to the first occupation of the 'Historic Quarter' a detailed management plan for the long –term management of the Oratory shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure appropriate measures for the long-term management of the heritage asset are secured, in accordance with Policies SS10 and HE1 of the Torbay Local Plan and the Torquay Neighbourhood Plan, and NPPF.

Detailed design 1

Prior to Installation details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. A sample (physical or digital) of the proposed stone, (if the stonework is in a historical context - 2m x 2m stone panel to be provided on site for approval by the LPA; the stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used.
2. A sample (physical or digital) of the proposed metal cladding,
3. A sample (physical or digital) of the proposed timber cladding, and
4. Details of all fencing and other mains of enclosures including retaining walls.

The development shall proceed in full accordance with the approved detail.

Reasons: In order to protect visual character and heritage assets in accordance with Policies C2, DE1, HE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Detailed design 2

Prior to the commencement of development pertaining to the 'Historic Quarter', excluding demolition and groundworks, details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. Samples of all proposed external materials,
2. Detailed drawings of all openings, windows and doors, including materials, joinery and reveals,
3. Details of all fascias, soffits and sills,
4. Details of all pointing and pointing mix,
5. Details of rainwater goods,
6. Details of all fencing, gates and other mains of enclosures including retaining walls.

The development shall proceed in full accordance with the approved detail.

Reasons: In order to protect visual character and heritage assets in accordance with Policies HE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Schedule of Works

A full schedule of works for the 'Historic Quarter' shall be submitted to and agreed in writing with the Local Planning Authority prior to commencement of development relating to the Historic Quarter works on site. The development shall proceed in full accordance with the agreed schedule of works.

Reason: To protect visual character and heritage assets in accordance with Policies HE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Phasing

No more than 30 dwellings shall be occupied until the development and conversion of the listed buildings identified within the 'Heritage Quarter' has been completed in accordance with the approved plans, unless a specific phasing strategy for the delivery of the heritage works associated with the listed buildings has been submitted to and approved in writing by the Local Planning Authority. In the event of an approved phasing strategy the development shall accord with the approved strategy.

Reason: To secure the works to heritage assets, which are an integral element to the scheme in terms of public benefit, in accordance with Policies SS10, HE1 and C2 of the Torbay Local Plan, Policy TH10 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

Public open space

Prior to the first occupation of the development the undeveloped coastal meadow to the north of the spine road serving the development shall be made available for recreational public use and maintained for such purposes at all times thereafter.

Reason: To secure appropriate outdoor amenity space for the apartments and to improve public access to the coastal environment, in accordance with Policies DE3, DE1 and C2 of the Torbay Local Plan 2012-2030.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment

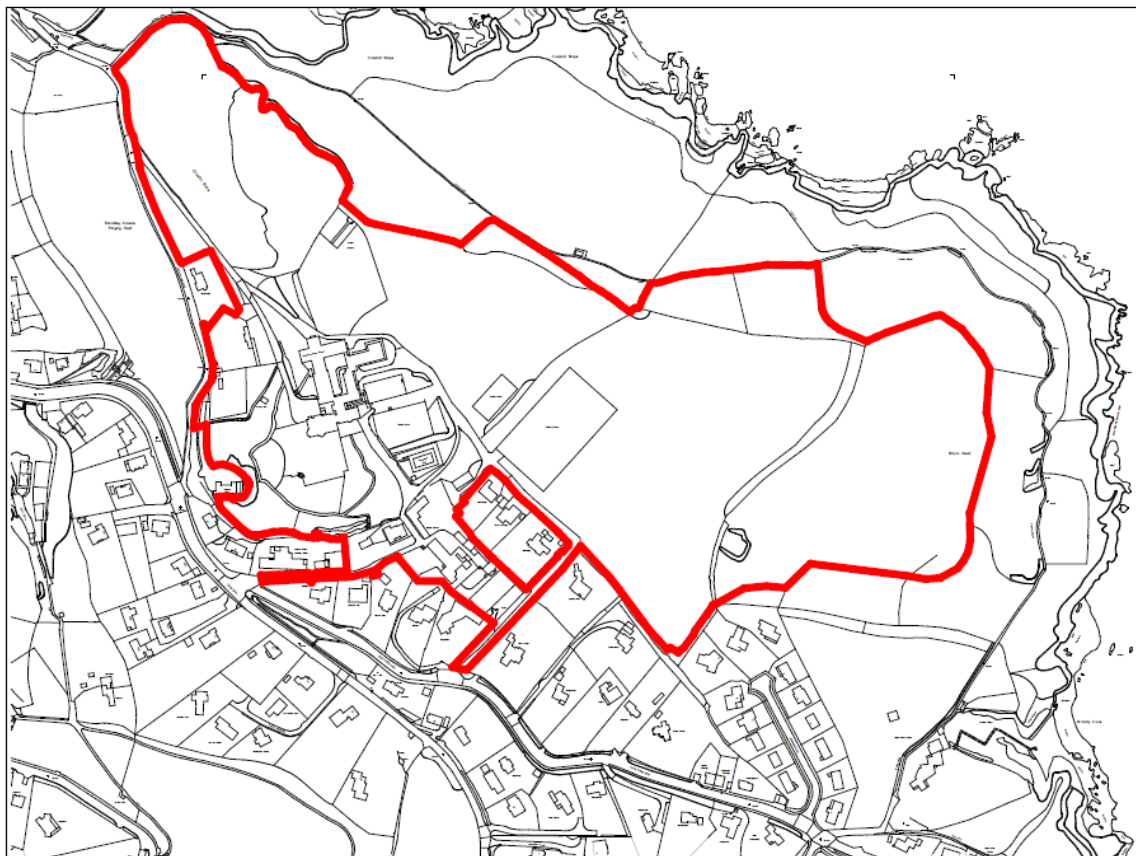
SS9 - Green Infrastructure
SS10 - Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C2 - The Coastal Landscape
C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH8 - Established architecture
TH9 - Parking facilities
TH10 - Protection of the historic built environment
TT2 - Change of Use in Conservation Areas and Listed Buildings
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
TTR2 - Sustainable Communities
THW4 - Outside space provision
THW5 - Access to sustainable transport



Application Site Address	Stoodley Knowle School, Ansteys Cove Road Torquay TQ1 2JB
Proposal	Listed Building Consent for works to the listed buildings (related to P/2019/1334 - Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure).
Application Number	P/2019/1334
Applicant	The PG Group
Agent	Bell Cornwell LLP
Date Application Valid	13.12.2019
Decision Due date	07.02.2020
Extension of Time Date	17.07.2020
Recommendation	Approval; subject to conditions (detailed wording at the end of this report)
Reason for Referral to Planning Committee	Linked to Major Development
Planning Case Officer	Scott Jones

Location Plan –



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SITE LOCATION PLAN
1:1250

Site Details

The site is that of the former Stoodley Knowle School, an independent girls school which closed in 2015, set within the suburb of Wellswood in Torquay and located on an elevated coastal position between Ansteys Cove to the north-west and Hope Cove to the south-east.

Towards the south of the site sit a group of buildings, some of which are listed.

Ilsham Manor Oratory – Grade II* Listed - A three-storey small rectangular building of circa 15th century origins, which represents one of three surviving medieval structures at Ilsham. These are associated with a grange established by the nearby Premonstratensian Abbey of Torre.

2 ranges of outbuildings to the northwest of Ilsham Manor Oratory – Grade II Listed, which are former farm buildings of potential medieval origins, which have been much altered in the 20th century.

Outbuilding to southeast of Ilsham Manor Oratory – Grade II Listed, which is an outbuilding now converted into a classroom, again with possible medieval origins, and rebuilt in the 19th century.

More broadly the site covers a total of 17.4 hectares and comprises a large complex of buildings along with areas of open meadow, gardens and woodland. The existing buildings, which are primarily located towards the centre and western parts of the site are a mixture of styles and ages and vary in scale between larger more modern institutional buildings to much smaller one and two storey period buildings.

Description of Development

Listed Building Consent is sought for associated works to facilitate in part the wider proposals for the demolition of the majority of the school buildings in order to redevelop the site to provide 90 residential units comprising 68 apartments, 13 new-build dwellings and 9 dwellings via the conversion of existing buildings.

Listed Building Consent is sought for all works of demolition, alteration or extension to the listed buildings.

The objectives of the works are to provide a mix of high quality housing, and thus uses for the listed buildings, the creation of a distinctive and attractive place that reflects the existing local character, relating well to the historic context, which is low density housing provided in an arrangement that reflects the historic character. It includes the conservation of existing heritage assets and the removal of inappropriate C20th additions.

Through the conversion of existing buildings and extensions the proposed development provides a total number of 7 no. 2, 3 and 4 bedroom residential units plus a 4 bedroom replacement dwelling.

Building 1 (Threshing Barn)

Seeks to sensitively convert the existing building identified as the threshing barn. Externally, the elevations of the existing barn will be retained and where necessary restored. Works will include the repair of areas of localised cracking using appropriate methods and compatible materials. The infilled opening in the north-west elevation will be opened up, and a new opening is proposed in the north east gable end. The main entrance to the existing barn is to be infilled with new glazed timber joinery as indicated on the elevations. The existing roof is to be retained and where necessary overhauled including new lead flashings to ensure weather tightness. A structural assessment of the building has identified that the roof has failed and spread in the vicinity of the door opening in the south elevation, with sections of the adjoining stonework leaning outwards. These failures will be rectified in accordance with the recommendations of a structural engineer.

Building 2 (Shippon Building)

Proposals seek to convert the existing building and to provide a new building to the west providing a 3 bedroom 6 person dwelling. Externally, the elevations of the existing barn will generally be retained and where necessary restored, with alterations to window openings where appropriate to suit the proposed internal layout. Works will include the repair of areas of localised cracking using appropriate methods and compatible materials. A structural assessment found that the existing roof has failed, causing localised displacement of the stonework, and advises that the roof will require complete dismantling and reconstruction. Existing clay roof tiles will be retained and reused. The proposed new build element comprises of matching limestone faced walls and clay tile roof finishes. High level timber joinery reflects the fenestration of the larger new building to the north.

Building 3 (Playschool)

Proposals for Building 3 seek to convert the existing building, including providing a new first floor of accommodation, and to provide a new single storey extension to the south east providing a 3 bedroom 6 person dwelling. Externally, the elevations of the existing building will generally be retained and where necessary restored, with alterations to window openings where appropriate to suit the proposed internal layout. Works will include the repair of areas of localised cracking using appropriate methods and compatible materials. The late 20th Century entrance porch is to be removed and the first floor bay window extended down to ground floor level.

Building 4 (Ilsham Manor)

Not specifically listed, arts and craft building style building, with the elevations of the original building generally be retained and where necessary restored. It is proposed to remove the range of original single storey buildings to the northern end of the main two storey house. Works will include the repair of areas of localised cracking and repair works using appropriate methods and compatible materials. A structural assessment found that overall the structural condition of the building appears to be relatively good and capable of conversion and renovation. The existing roof is to be retained and where necessary overhauled including new lead flashings to ensure weather tightness. Existing timber fascias and soffits are to be replaced with new.

Building 5 (Cart Shed)

Proposals for Building 5 seek to convert and extend to provide a 3 bedroom 5 person dwelling. Externally, the elevations of the existing barn will generally be retained and where necessary restored. Works will include the repair of areas of localised cracking using appropriate methods and compatible materials. New timber joinery is to be inserted into existing openings on the north east elevation, with all non-original external steps and handrails to be removed. Existing window openings to the two storey range will be amended as indicated on drawings to suit the proposed internal layout. New window openings are to be provided in the south west elevation of the single storey range with the arrangement to suit the proposed bedroom layout. Areas of existing render finish are to be removed to expose existing limestone wall finishes (subject to the condition of the stonework beneath). The existing unoriginal 20 degree pitch roof to the two storey range is to be replaced with new. All roof lights are to be omitted and the roof is to be set at a 30 degree pitch that is both more appropriate for the clay tile finish and a closer match to the original roof profile. All modern rooflights to the single storey range are also to be removed.

Building 6 (Replacement Dwelling)

Not listed and outside the curtilage of the listed buildings. It is proposed to replace the 20th century dwelling with a modern dwelling.

Building 7 (The Chapel / Oratory)

Its setting is to be improved by the proposed demolition works to adjacent 20th century buildings. Externally, the elevations of the existing Chapel will be retained and where necessary restored. Works will include the repair of areas of localised cracking using appropriate methods and compatible materials. The existing roof is to be retained and where necessary overhauled including new lead flashings and rainwater goods to ensure weather tightness. A full schedule of works will be prepared by a structural engineer and agreed with the Local Authority Conservation Officer prior to commencement of works on site.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

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

Relevant Planning History

Pre-Application:

DE/2017/0138: Conversion of 5 x listed barns and restoration of the Grade II.* Chapel. Demolition of all other buildings and replacement with 25 x new houses, 60 to 80 x 1,2 and 3 bedroom flats and a 60 bedroom nursing home. Landscaping and amenity space. Split Decision.

Applications:

P/2019/1334: Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure. (*Associated Listed Building Consent to P/2019/1330*). Pending determination

*P/2018/0472: Demolition and conversion of former school buildings; creation of 106 dwellings comprising apartments and houses (97 new build units); and construction of a 60-bed care home, along with car parking, landscaping, and other associated infrastructure. Pending determination.

*P/2018/0473: Demolition and conversion of former school buildings; creation of 106 dwellings comprising apartments and houses (97 new build units); and construction of a 60-bed care home, along with car parking, landscaping, and other associated infrastructure. (*Associated Listed Building Consent to P/2019/1330*). Pending determination.

*The consideration of these applications has been paused whilst the Authority considers the current 'reduced' scheme for 90 units, which the applicant has submitted to try and respond to officer concerns (principally) regarding the extent and location of development within the Undeveloped Coast.

P/2011/1245: Demolition of house at St Gerard and construction of 2 new houses within the site curtilage (In outline). Approved.

P/2014/1018: Construction of two new dwellings within the site curtilage, illustrating appearance, external landscaping, site layout and dwelling layouts (reserved matters following outline approval P/2011/1245). Approved.

Summary of Representations

A total of 7 public representations have been submitted objecting to scheme but none raise points relevant to the listed building application.

Summary of Consultation Responses

Historic England:

Historic England has concerns regarding the applications on heritage grounds. The council should ensure that they have sufficient information by which they and their heritage advisors can assess the impact of the wider development, with particular

reference to the north-west, on the setting of the historic complex and its contribution to significance.

Due to the lack of justification for the proposed increase in scale of the new additions to the complex, the council in discussions with their heritage advisor and the applicant should explore ways in which the scale and bulk of these new additions can be reduced to ensure that they continue to make a positive impact to this highly significant complex of buildings.

The council should also secure the on-going management of the grade II* listed Oratory, including its maintenance, repair and interpretation through the planning application. This will ensure the building has a sustainable future.

In determining these applications you should bear in mind the statutory duty of sections 16(2) and 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess.

Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice.

Torbay Council Interim Heritage Advisor:

This scheme has been the subject of considerable negotiations over a long period, with a view to reaching a proposal which could reasonably receive a recommendation of approval. This has also involved consultation with the previous conservation officer.

I am pleased that the latest application has clearly been designed with a view to addressing the major issues identified in respect of the original application.

In terms of heritage context, the site has development over the years and is now of a somewhat mixed character. However there are some strong and important elements of heritage (including high quality non-designated assets) contained within the mix, these include designated heritage assets in the form of listed buildings.

The application includes an assessment of heritage (including archaeology) which suitably considers all of the designated and non-designated heritage assets on the site and their setting where appropriate. The impact on some of the settings are further helpfully covered by illustrations of before and after viewpoints. The submitted Planning Statement also provides a useful summary of the potential heritage impacts and assessments.

In my view whilst providing a new context for the heritage assets involved the design has been carefully considered and is of a high quality. Whilst there are numerous detailed considerations, in my opinion the overall scheme strikes a suitable balance which will help to restore the site back to an economic use and ensure that the heritage assets have a sustainable future, or at the very least are repaired to enable a reuse to be found in the longer term. The settings of the heritage assets was a concern expressed by Historic England, however, I consider that the additional material supplied by the applicant helps to clarify that whilst the setting will change this has been handled with care to ensure that the impact is limited.

In conclusion, I consider that the scheme has been well researched and designed and in terms of heritage impacts a suitable balance has been achieved where overall the outcome in terms of heritage could be said to be neutral. Any negative overall impacts arising would in my view fall within the less than substantial harm category.

The development should be subject for the usual range of standard conditions applicable to works involving heritage assets, including details of all new material, with sample panels of materials to clarify finishes, pointing and pointing mix, and fenestration and joinery details including sectional drawings indicating reveals at an appropriate scale. The landscaping of the site will be critical to the success of the scheme, not least in terms of ensuring that the setting of the heritage assets are protected and enhanced. The submitted details indicate that landscaping has been carefully considered to date, and as such any conditions should ensure that the restoration elements are suitably phased to ensure that they are delivered in a timely manner.

Key Issues/Material Considerations

Planning Officer Assessment

1. Heritage Impact
2. Other Considerations

1. Heritage Impacts

1.1 In terms of the local Development Plan Policy TH10 of the Torquay Neighbourhood Plan cites that alterations to Listed Buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. In doing so, proposals which at the same time contribute to providing a sustainable economic future for such buildings will be particularly supported. In regard to the Torbay Local Plan it guides that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1), and Policy SS10 requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance.

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

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

1.4 This scheme has been the subject of considerable negotiations over a long period which commenced at pre-application stage and included the consideration period of an earlier application submitted in 2018, and continued through the consideration period of this application.

1.5 The application includes an assessment of heritage which suitably considers all of the designated and non-designated heritage assets on the site and their setting where appropriate. The impact on some of the settings have been more recently explored through the submission of illustrations of before and after viewpoints, which sought to address comments made by Historic England.

1.6 The proposed development is extensive and will serve to change the character of the site but in turn will remove elements which are unsympathetic, and result in the conversion and re-use of existing listed buildings on the site. It is concluded that whilst providing a new context for the heritage assets the proposals are well considered and are of high quality and strikes a suitable balance which will help to restore the site back to an economic use and ensure that the heritage assets have a sustainable future, or at the very least are repaired to enable a reuse to be found in the longer term.

1.7 The settings of the heritage assets was a concern expressed by Historic England, however additional material has been supplied by the applicant and considered by the Authority's interim heritage advisor, who concluded that whilst the setting will change it has been handled with care to ensure that the impact is limited.

1.8 In conclusion it is considered that the scheme, as summarised on the description in this report, in terms of heritage impacts delivers a suitable balance where the overall outcome in terms of heritage are potentially neutral or fall within the less than substantial harm category. If the cautious view is taken Para 196 of the NPPF provides guidance in that "*Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use*". There are demonstrable benefits beyond finding a viable use of the listed buildings including housing supply and the re-use of an unused brownfield site.

1.9 In order to secure an appropriate form of development any grant of planning permission should be subject to such as detailed materials and finishes.

1.10 In accordance with the conclusions above the proposal is considered substantially in accordance with design and heritage policies contained within the Development Plan and guidance contained within the NPPF. This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any

features of special architectural or historic interest which it possesses.

2. Other Considerations

Housing Supply

2.1 The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan when considered as a whole. As stated within this report the development is largely proposed on previously developed land and land within the built up area.

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

2.3 The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate between a 2.5 - 3 year supply, which is a significant shortfall.

2.4 It is concluded that there is some discordance with the Development Plan however this discordance is considered limited when the Development Plan is considered as a whole. Were this judgment different and the proposal considered to conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As offered in this report any harm is considered limited and thus the adverse impacts are not significant and demonstrable in this context, and the tilted balance in favour of granting permission should apply.

CIL: The listed building application is not CIL liable.

EIA/HRA

EIA:

This has been considered aside the associated Major Planning Application. 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:

This has been considered aside the associated Major Planning Application. A Habitat Regulations Assessment / Appropriate Assessment has been carried out for this development in consultation with Natural England aside the associated planning application P/2019/1330.

It has been concluded that the proposed development is unlikely to have a significant effect on the South Hams SAC or the Lyme Bay and Torbay SAC. Due to the proximity of the development to the coastline and the marine environment of the Lyme Bay and Torbay SAC it is concluded that mitigation to respond to additional recreational pressures should be secured. Natural England have been consulted and concur with

the Council's conclusions. A Payment of £90 per dwelling is proposed, to be secured under the associated planning application P/2019/1330.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. As the Council cannot currently demonstrate a 5 year housing land supply the supply of housing should carry significant weight.

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

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

Conclusions and Reasons for Decision

The development is considered to result in a neutral impact upon the Listed Buildings with a public benefit through the re-use of said Listed Building and the provision of much needed additional housing.

The proposals are considered to be in accordance with the provisions of the Development Plan.

Officer Recommendation

Approval: Subject to;

1. Planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency and;

With the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions:

1. Schedule of works

Prior to the commencement of development a full schedule of works for the 'Historic Quarter' shall be submitted to and approved in writing by the Local Planning Authority, which shall include the timing of works in association with the wider development.

The conservation repair works to the 'Historic Quarter' shall be completed in full in accordance with the schedule and timing of works approved.

Reason: In order to preserve the heritage assets in a manner appropriate to their significance and in order to comply with Policies SS10 & HE1 of the Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan and the NPPF.

2. Materials

Prior to the commencement of any development other than demolition relating the 'Historic Quarter' a full external materials schedule shall be submitted to and approved in writing by the Local Planning Authority. The schedule shall be supported by the provision of samples for the following;

1. All roof materials,
2. All stone and other wall coverings,
3. All means of enclosures,
4. All hard surfacing,
5. All fascia and soffit materials,
6. All sill materials,
7. All rainwater materials.

Samples shall be physical unless expressing agreed by the Local Planning Authority.

The development shall be carried out in full accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the area in accordance with policies DE1, SS10 & HE1 of the Torbay Local Plan 2012-2030 and policy TH10 of the Torquay Neighbourhood Plan.

3. Detailed Design

Prior to the commencement of development pertaining to the 'Historic Quarter', excluding demolition and groundworks, details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. Detailed drawings of all openings, windows and doors, including materials, joinery and reveals,
2. Details of all fascias, soffits and sills,
3. Details of all pointing and pointing mix,
4. Details of rainwater goods,
5. Details on ducting,
6. Detailed drawings of all flues,
7. Detailed drawings of all ventilation and extraction,

8. Detailed drawings of all meter boxes,
9. Details of all fencing, gates and other mains of enclosures including retaining walls.

Section and elevation drawings of all windows and doors, reveals and sills shall be drawn to a scale of 1:1 – 1:10.

The development shall proceed in full accordance with the approved detail.

Reasons: In order to protect visual character and heritage assets in accordance with Policies HE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Development Plan Relevant Policies

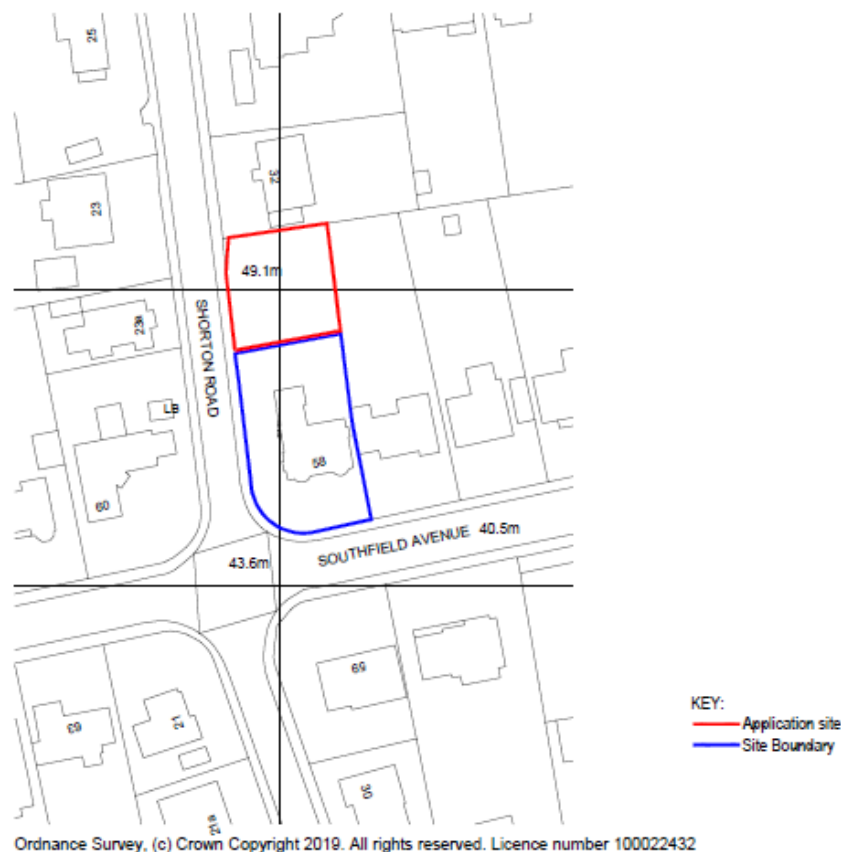
SS10 - Conservation and the historic environment
HE1 – Listed Buildings

TH10 - Protection of the historic built environment



Application Site Address	58 Southfield Avenue Paignton TQ3 1LH
Proposal	Proposed new dwelling in curtilage of property.
Application Number	P/2019/0923
Applicant	Mr and Mrs Munro
Agent	Mr Mike Hughes – Narracotts Architects
Date Application Valid	03/09/2019
Decision Due date	29/10/2019
Extension of Time Date	17/07/2020
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 responsible for Planning, Housing and Climate Emergency.
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 is part of the curtilage of No.58 Southfield Avenue, Paignton, which is a detached residential property located on the corner of Southfield Avenue and Shorton Road. The site will have access from Shorton Road and will be sited to the northern, higher section of the rear garden of No.58 Southfield Avenue. The site slopes down towards the southern edge of the site. The outdoor amenity space for No.58 Southfield Avenue is on two levels that are relatively level. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

To the north of No.58 Southfield Avenue is No.32 Shorton Road, which is separated by dense vegetation and a stone boundary wall. The ridge line of No.32 Shorton Road is 58.370 (AOD), whilst the host dwelling No.58 Southfield Avenue has a ridge line of 56.30 (AOD). To the east of No.58 Southfield Avenue is No.56 Southfield Avenue, which is separated by a close-boarded fence. The application site adjoins the end of the rear garden of No 56. Southfield Avenue.

Description of Development

The proposal seeks to form a four bedroom dwelling with an integral garage in the curtilage of 58 Southfield Avenue, Paignton. The proposed dwelling includes an off-street parking space and outdoor amenity space. The appearance of the proposed dwelling is contemporary and includes a main pitched roof with mono-pitch elements. The proposal is for a split-level storey dwelling, that includes lower, ground, first and second floors.

The split-level design incorporates the following:

- Lower ground floor – Hallway, store, utility and integral garage.
- Ground floor – Two bedrooms and a bathroom.
- First floor – Open lounge/kitchen/dining area.
- Second floor – Two bedrooms both with en-suites.

Full-height windows are proposed in the following locations:

- On the northern elevation to serve the lounge/dining area (first floor);
- On the eastern elevation to serve bedroom 3 (ground floor) and the lounge/dining area (bottom panes obscurely glazed – first floor);
- On the southern elevation to serve the utility (lower ground floor) and lounge/dining area (obscurely glazed – first floor); and
- On the western elevation to serve the open lounge/kitchen/dining area (first floor).

It should be noted that the proposed plans for this planning application have been revised a number of times to address concerns of officers and neighbours. The key changes are:

- Setting the proposed dwelling back to have a suitable building line that reflects the positioning of existing properties on Shorton Road and provides off-street parking that meets the standards set in Appendix F of the Torbay Local Plan.
- Redesigning the overall appearance of the proposed dwelling from a flat roof design to a mono-pitch split-level design so that it is more in keeping with the street scene
- Reducing the proposed number and size of openings to protect adjacent occupiers.
- Removal of an upper terrace at the rear that would have overlooked the neighbour.
- Insetting part of the building that includes the full height east facing patio lounge doors to prevent oblique overlooking to the dwellings at No 58 and 56 Southfield Road.

Pre-Application Enquiry

None sought.

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

Relevant Planning History

P/1990/0708/OA: Erection Of One Dwelling House With Access Onto Shorton Road (In Outline). Refused 25/05/1990.

1. The proposal constitutes over-development of a restricted site, detrimental to the character, appearance and residential amenity of adjacent property and the area, and would establish a serious precedent for other similar proposals in this and other areas, which cumulatively would destroy the character of such areas.

P/1982/1421/OA: One Dwelling. Refused 09/08/1982.

1. After due allowance has been made for the provision of an adequate building line, the site is of insufficient size to allow for the erection of a dwelling which

would be in keeping with the character of the area, and at the same time allow for adequate space about both the proposed building and the existing house.

2. The proposal would result in an unsatisfactory arrangement of buildings which would adversely affect the residential amenities and privacy of the existing house and adjoining dwellings.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. 32 letters of objection have been received, it should be noted that this number reflects 15 objectors as some have made more than one objection.

Concerns raised include:

- Loss of light
- Overdevelopment
- Not in keeping with local area
- Privacy/overlooking
- Residential amenity
- Sets precedent
- Drainage
- Impact on local area
- Noise
- Traffic and access
- Trees and wildlife
- Land stability
- Planning history

An update will be provided to Members of the Planning Committee following the end of a further public consultation period due to receiving revised plans.

Summary of Consultation Responses

Paignton Neighbourhood Forum:

No comments received.

Torbay Council's Highways Engineer:

No objections. The developer will need to construct a vehicular crossing using a suitably qualified and insured contractor under licence to the highway authority

South West Water:

No objection.

Torbay Council's Drainage Engineer:

The developer has identified that infiltration drainage will not be feasible at this development and is therefore proposing to discharge surface water run-off from the site at a controlled discharge rate to the combined sewer system.

The proposed discharge rate of 1.0l/sec complies with the requirements of the Torbay Critical Drainage Area.

The only hydraulic calculations that have been submitted are for the design of the attenuation tank. There are no hydraulic calculations for the surface water drainage system discharging to or from the attenuation tank. These are required to confirm that there is no risk of flooding to properties on the site or any increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

The developer must supply a drawing showing the proposed surface water drainage for the development which provides details of the proposed manhole cover levels, invert levels, pipe diameters, pipe gradients, pipe numbering used in the hydraulic modelling and details of the impermeable areas discharging to each pipe length. All of this information is required to be included within the hydraulic modelling.

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

It should be noted that the Council has adopted Drainage Standing Advice, therefore as the site is within Flood Zone 1, a planning condition can be employed to secure suitable surface water drainage.

Torbay Council's Senior Tree and Landscape Officer:

No arboricultural input required.

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

The site is located within an established residential area and is considered to be a sustainable location for such development being in relatively close proximity to

services and public transport routes. Objectors have raised concerns regarding the planning history of the site. It should be noted that previously in 1990 and 1982 outline consent was refused for a new dwelling in the curtilage of No.58 Southfield Avenue, Paignton. The reasons for refusal include overdevelopment, impact on visual and residential amenity, potential precedent. These concerns will be addressed in the body of this report.

Objectors have also raised concerns regarding land stability. It should be noted that full structural considerations would be a matter for Building Regulations instead of the planning process.

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. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by the National Planning Policy Framework (NPPF)

Paragraph 11 of the NPPF states:

Plans and decisions should apply a presumption in favour of sustainable development.

For **decision-taking** this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date⁷, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

This broad position is subject to wider policy considerations that are relevant to the development proposal.

2. Impact on Visual Character

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.

There is a somewhat mixed local character and pattern of development within the locality, although it is generally characterised by detached houses within spacious plots. Objectors have raised concerns that the proposal is a form of overdevelopment, it is not in keeping with the local area and it will have a negative impact on the local area. Concerns have also been raised that permitting the proposal will set a precedent. Outline consent has previously been refused on site for a new dwelling in the curtilage of No.58 Southfield Avenue, Paignton. Previous refusals have stated that a dwelling constitute a form of overdevelopment, sets a precedent and would have a negative impact in terms of visual impact. It is considered that the proposal would not have a detrimental impact on the existing streetscene as over the decades the adjacent infill plots have been filled (Nos.23, 23A and 32 Shorton Road). It is considered that the existing streetscene does not offer any particular characteristic or ambience.

The proposed dwelling provides an active frontage along the section of Shorton Road and when considering the existing dwelling, it is considered to be at a reasonable distance to not have an overbearing or over dominant effect. The relationship of the proposed siting of the new dwelling with the streetscene is therefore considered to be acceptable.

In terms of the footprint of the dwelling within the plot the proposal will result in additional built form within the plot, however other corner plots within the locality have been infilled. Furthermore, an adequate area of outside space is retained for both the proposal and No.58 Southfield Avenue. The overall footprint is therefore 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, considering previous planning decisions made in the area. It is also relevant to consider that having regard to the lack of a five year housing land supply in Torbay a tilted balance should be applied in favour of sustainable development. It is considered that the proposal will provide a reasonably sized house which will assist in the supply of housing. It should be noted that the site slopes to the

south and that the natural ground levels therefore fluctuate on site, however it is considered that the proposal positively addresses the topography and provides a dwelling of a reasonable size, scale and massing. The footprint of the plot will be subdivided, however it is considered acceptable due to the plot size, and as an adequate level of space will be provided around both the proposed and existing dwelling.

In terms of design and massing the proposed dwelling will appear predominately as two and a half storeys, due to the topography of the land and the split level internal configuration. In considering the design regard must be given to the surrounding streetscene there is a mixture of house types and designs and therefore given the context of the area, the proposal is considered to be acceptable in terms of design and impact on the streetscene. There is a mixture of gable and hipped roofscapes with the vicinity, there is also a mixture of finishes from render to cladding. It is considered that as there is no distinct house type or character that the proposal is in keeping with the local area. The proposal is considered to provide a dwelling with a contemporary visual appearance, a planning condition is recommended to secure details of external materials for the proposed dwelling.

As a result the size, scale, massing and visual appearance of the dwelling is considered to be acceptable and without detriment to the character and appearance of the locality or streetscene, and is considered to comply 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 states that development proposals should be designed to ensure an acceptable level of 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 121 square metres is required for a four bedroom, seven bed-space, three storey dwelling.

The internal floor space area for the proposed dwelling is approximately 175 square metres and the outside amenity space is in excess of 120 square metres, which is above the standards required. No.58 Southfield Avenue retains and maintains its off-street parking spaces and over 200 square metres of outdoor amenity space. It is therefore considered that an adequate standard of accommodation for the proposed

dwelling is provided and adequate parking and outdoor amenity space is maintained for No.58 Southfield Avenue.

In terms of impact on the neighbouring properties, the proposal is considered to have an acceptable impact. Objectors have raised concerns regarding loss of light, invasion of privacy, overlooking, noise, negative impact on residential amenity and overbearing. Concerns have also been raised by adjacent dwellings on the opposite side of the road on Shorton Road, it should be noted that Shorton Road separates the proposal and the dwellings adequately, it is considered that the proposal will not have a detrimental impact upon those occupiers.

The proposed dwelling has been significantly revised to overcome officer concerns regarding the impact the proposal would have on levels of privacy on adjacent occupiers. The scheme has been amended in the following ways:

- Reduction in amount and size of openings
- Introduction of obscure glazing to a number of openings
- Removal of an upper terrace at the rear that would have overlooked the neighbour.
- Insetting part of the building that includes the full height east facing patio lounge doors to prevent oblique overlooking to the dwellings at Nos.58 and 56 Southfield Road.

Impact on privacy

The southern and eastern elevations of the proposed dwelling will sit adjacent to Nos.56 and 58 Southfield Avenue's outdoor amenity space. A planning condition is recommended to ensure that certain windows within the proposed dwelling are obscurely glazed as per the plans, as some particular openings could be detrimental to the privacy of adjacent occupiers, however by obscurely glazing the openings it enables the proposed dwelling to gain natural light.

The site benefits from dense vegetation between itself and No.32 Shorton Road which is shown to be retained on the proposed plans. It should be noted that there is only one opening on the side elevation of No.32 Shorton Road that faces the site, which is an obscurely glazed door leading out onto a roof terrace sited on top of the garage from where it is possible to overlook the outdoor amenity space of No.58 Southfield Avenue.

The proposed plans also show a lower and a higher terraced area, it is considered that with adequate boundary treatments, the privacy between the site and No.56 Southfield Avenue will be maintained. It should be noted that No.56 Southfield Avenue has a large amenity space and the site will only impact upon the end section of this with the most sensitive area of No.56 Southfield Avenue's outdoor amenity space being protected. A further planning condition is recommended to secure the landscaping of the scheme which will provide natural screening between the site and the adjacent dwellings.

The building design has been amended so that the east facing full height glazing to the living area of the new dwelling is set back behind a solid wall to prevent oblique views back towards Nos.58 and 56 Southfield Avenue.

Impact of scale and massing on adjacent neighbours

The proposed dwelling is located approximately 16 metres from No.58 Southfield Avenue, approximately 18 metres from No.56 Southfield Avenue and approximately 7.5 metres from the side elevation of No.32 Shorton Road.

The relationship between the proposed dwelling and No.32 Shorton Road is considered to be acceptable given the topographic levels and No.32 being significantly higher than the site.

In respect of the impact to Nos.56 and 58 Southfield Avenue to the south of the site, the dwelling is not considered to impact on the amenity of these properties due to the separation distances and due to the siting of the proposal and therefore it is considered that the proposal will not have an overbearing impact on adjacent dwellings.

Access to natural light

Due to the siting of the proposed dwelling and it being to the north of No.58 Southfield Avenue, it is considered that due to the topography and orientation that the proposal will not have an impact on the access to natural light to any adjacent neighbour, including No.32 Shorton Road which is sited on higher land.

Residential amenity overview

The site is large enough to accommodate a new dwelling without resulting in any harmful overlooking, overbearing or overshadowing impacts to neighbouring properties. In addition, a planning condition is recommended to remove permitted development rights to ensure that amenity of adjacent dwellings is not impacted due to the site being constrained. A further planning condition is recommended to secure a Construction Method Statement. As such with the addition of the recommended planning conditions, the proposal is considered to be acceptable in terms of impact on neighbour amenity and therefore accords with Policy DE3 in the Torbay Local Plan.

4. Impact on Highways

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

viability space for solid waste storage within the curtilage and purpose designed cycle parking space that is covered, safe and convenient.

The proposal proposes one off-street parking space to be accessed from Shorton Road and the other off-street parking space is contained within the integral garage. Objectors have raised concerns regarding traffic and access, in particular the level of parking provision the proposal provides. Appendix F states that parking spaces should be 4.8 metres by 2.4 metres except for when they abut the public footpath and/or public highway and then the spaces should be 5.5 metres by 3.2 metres to prevent vehicles from overhanging and causing an obstruction to the public footway and potentially the public highway. The off-street parking space will be sited directly in front of the garage and therefore 6 metres depth is required to enable the garage door to open. The Council's Highways Engineer has been consulted on the application and has stated that the Highways raise no objections. The proposed parking provision accords with Appendix F and a planning condition is recommended to retain the parking provision for the new dwelling. Furthermore, two covered and secure bicycle spaces should be provided, these are not indicated on the proposed site layout, however a planning condition is recommended to secure such details prior to occupation.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The submitted proposed plans indicate refuse storage, therefore a planning condition is recommended to secure the refuse storage for the new dwelling.

Subject to the aforementioned planning conditions, the proposal is considered to comply with Policies TA2, TA3 and W1 of the Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway.

5. Impact on Ecology

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 trees and ecology. It should be noted that the site does not have any tree preservation orders on site, and the site can be cleared without requiring permission from the Local Planning Authority. No trees intend to be felled. A planning condition and an informative has been recommended to remind the developer of their responsibility for bats and breeding birds.

6. Impact on 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.

The site is located within the Critical Drainage Area and the application has been accompanied by a flood risk assessment. Objectors have raised concerns regarding drainage. South West Water have raised no objections to the proposed development. The Council's Drainage Engineer was consulted on the proposal, the adopted Standing Advice applies to the proposal as it is within Flood Zone 1. A planning condition is recommended to ensure that a sustainable surface water drainage method is secured.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwelling is occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwelling to be provided must carry significant weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that it would possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on ecology and biodiversity and surface and foul water drainage. These matters are considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development.

The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would make use of a brownfield site within the existing urban area.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent sustainable development.

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

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

Local Finance Considerations

S106: Not applicable.

CIL: Not applicable.

EIA/HRA

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

HRA: Not applicable.

Planning Balance

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

Conclusions and Reasons for Decision

In the absence of a 5 year housing land supply applications for sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal on balance is considered acceptable in principle; would not result in unacceptable harm to the character of the area, heritage assets, or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, ecology and flood risk. The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, 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 for Planning, Housing and Climate Emergency.

Conditions

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 the approved dwelling, and no outbuildings or other means of enclosure shall be erected within the garden area of this dwelling house, with the exception of one ancillary structure 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 Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

Construction Method Statement

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

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

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

Materials

Prior to their installation details of the proposed exterior materials including wall finishes, roofing materials, windows, doors, eaves, fascias and rainwater goods shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

Flood Risk Assessment

Notwithstanding the submitted flood risk assessment, 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.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement of the development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 40% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 40% allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream. The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraph 103 of the NPPF. These details are required pre-commencement as specified as Torbay has been designated as a Critical Drainage Area and to ensure that a surface water drainage system is designed appropriately in light of this designation.

Obscure Glazing

Prior to the occupation of the dwelling hereby approved, the first floor window in the southern flank elevation which serves the dining/lounge area, the first floor lower pane windows in the eastern flank elevation which serves the dining/lounge area, and the ground floor window in the northern flank elevation which serves bedroom 4 of the development hereby approved shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. These windows shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with 100mm opening restrictors. The windows shall thereafter be permanently retained in that condition for the lifetime of the development.

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

Parking Provision

The dwelling hereby approved shall not be occupied or brought into use until the parking space and garage detailed on the plan reference " 2364 02 F" received on 24th June 2020 have been provided. These elements shall thereafter be retained for such purposes for 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 Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Paignton Neighbourhood Plan 2012-2030.

Electric Charging Point

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

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

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 Policy DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Paignton Neighbourhood Plan 2012-2030.

Refuse Storage

Prior to the first occupation of the development hereby permitted, the provision for storage of refuse and recycling awaiting collection as detailed on the approved plans (plan reference '2364 01 E' received 24th June 2020) shall be in place and available for use. Once provided, the approved storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Paignton Neighbourhood Plan 2012-2030.

Removal of Vegetation

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 Torbay Local Plan 2012-2030.

Landscaping

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

Reason: In the interests of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

Boundary Treatment

Prior to the first occupation of the development hereby approved, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and approved 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 Torbay Local Plan 2012-2030 and Policy PNP1(C) of the Paignton Neighbourhood Plan 2012-2030.

Informative(s)

1. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
2. 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.
3. 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.

Relevant Policies

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

NC1 – Biodiversity and Geodiversity

PNP1(c) – Design Principles

PNP1(d) – Residential Development

PNP1(i) – Surface Water

SS3 – Presumption In Favour Of Sustainable Development

TA2 – Development Access

TA3 – Parking Requirements

W1 – Waste Management