

Friday, 30 October 2020

## **PLANNING COMMITTEE**

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

**Monday, 9 November 2020**

commencing at **5.30 pm**

The meeting will be held remotely via Zoom (the links to the meeting are set out below)

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### **Members of the Committee**

Councillor Pentney (Chairman)

Councillor Brown

Councillor Dart

Councillor Dudley

Councillor Hill

Councillor Barbara Lewis

Councillor Manning

Councillor Jacqueline Thomas

Councillor Kennedy

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## **Together Torbay will thrive**

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# PLANNING COMMITTEE AGENDA

**1. Apologies for absence**

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

**2. 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. Former Torbay Holiday Motel, Totnes Road, Paignton TQ4 7PP P/2019/0615** (Pages 5 - 49)

Outline application for the demolition of Torbay Holiday Motel and redevelopment of site for up to new 39 residential dwellings together with the retention of Beechdown Court.

**5. Windmill Hill Sports Field, Higher Audley Avenue, Torquay TQ2 7PG P/2020/0541** (Pages 50 - 58)

Installation of dug-outs on football pitch.

**6. Watcombe Hall, Watcombe Beach Road, Torquay P/2020/0627** (Pages 59 - 80)

Conversion of existing care home into 8 flats & 4 houses with extensions, alterations & landscaping. Demolition of single storey link building & boiler house.

Construction of twelve flats with associated parking (Retrospective)

8. **Public speaking**

If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.

9. **Site visits**

If Members consider a virtual site visit is required they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 4 November 2020.

**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.

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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.

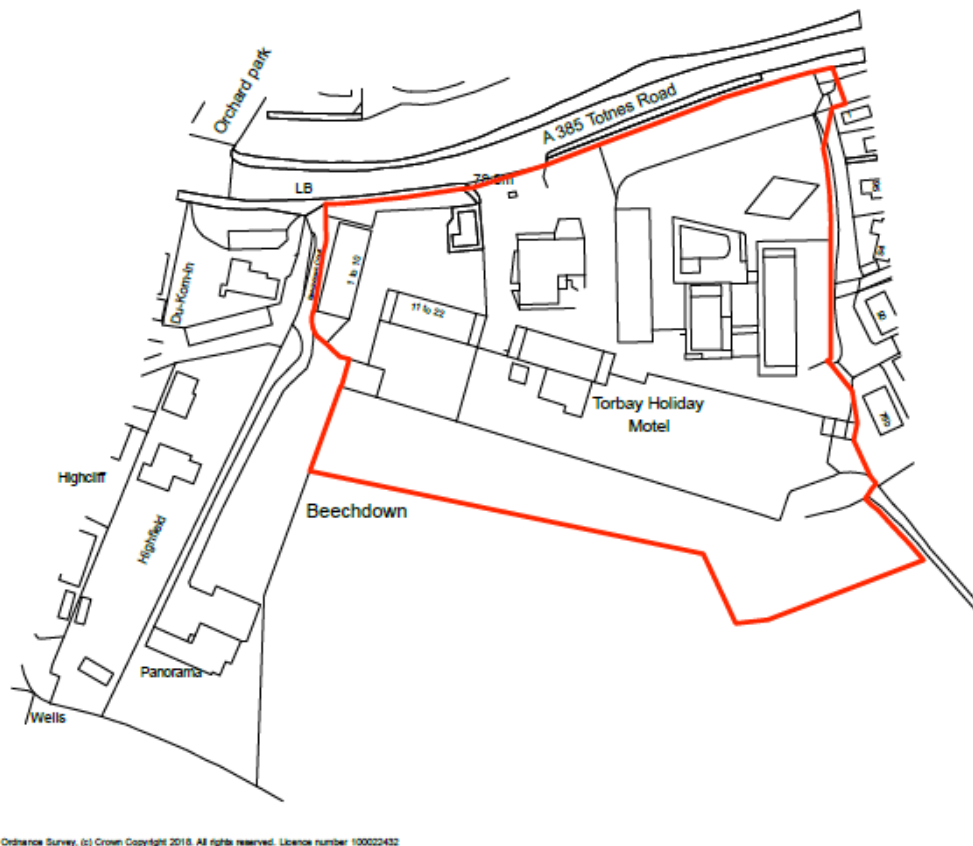
**Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video**

- 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.

## **TORBAY COUNCIL**

Application Site Address	Former Torbay Holiday Motel, Totnes Road, Paignton. TQ4 7PP
Proposal	Outline application for the demolition of Torbay Holiday Motel and redevelopment of site for up to new 39 residential dwellings together with the retention of Beechdown Court, with detailed access (Matters of Appearance, Landscaping, Layout and Scale reserved)(As revised by plans received 20.03.2020 and description amended 24.03.2020 and plans received 09.10.2020).
Application Number	P/2019/0615
Applicant	Torbay Eden Ltd
Agent	Stantec
Date Application Valid	30.07.2019
Decision Due date	29.10.2019
Extension of Time Date	31.08.2020
Recommendation	<p>Approval: Subject to;</p> <ol style="list-style-type: none"> <li>1. Planning conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency, and;</li> <li>2. The completion of a S106 Legal Agreement to secure heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, and that secures future access to the wider masterplan area to the east of the site is not inhibited, delegated to the Assistant Director of Planning, Housing and Climate Emergency.</li> </ol> <p>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.</p>
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

## **Location Plan**



## **Site Details**

The application site is the former Torbay Holiday Motel, which is set on the south side of the Totnes Road (A385) on the outskirts of Collaton St Mary, Paignton.

The Motel consists of a small grouping of two-storey buildings that date from the mid-20<sup>th</sup> Century. The Motel has been closed for a number of years and the buildings display a somewhat neglected appearance. The land around the buildings is largely laid to hardstand but where it is not there is unmanaged scrub growth. To the western side of the site there are two residential blocks (Beechdown Court) that remain in use, which provide 22 small apartments. These blocks are arranged in an L shape with the associated parking area clearly delineated from that of the wider site by a wall and the previous reception building for the Motel. To the front of the site, to the east of the existing entrance, there is a linear strip of hardstand that runs parallel to the low boundary walls that abuts the pavement. This hardstand is in use as an access route for the adjacent 'park home' site that sits to the east, Beechdown Park. The application site also includes the lower section of the adjacent field to the south of the site, which amounts to a strip of land of approximately 15-20m deep.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016). In addition a small section of the site, the south-eastern corner towards the back of the site, sits as part of the

Brake Copse Local Nature Reserve. The nature reserve principally encompasses the wooded area on higher land to the south but there is a finger of the designation that follows the field boundary down to the south to the corner of the application site. Other notable designations are that the site sits within a Critical Drainage Area and that there is an area of heightened risk of flooding identified on land to the east of the site, within Beechdown Park, which continues east through Higher Blagdon Farm and beyond. It is also noted that the site sits within the Landscape Connectivity Zone associated with the South Hams Special Area of Conservation (SAC), which relates to the Greater Horseshoe Bat colonies across South Devon.

### **Description of Development**

The application seeks outline planning permission for up to 39 dwellings with all matters reserved except for access. This includes the retention of Beechdown Court apartments. The current proposal has evolved from an initial proposal to demolish all of the buildings on the site to provide up to 70 dwellings and was re-advertised as such following the receipt of revised plans in March 2020. The current proposals are supported by a recently revised indicative layout submitted 9<sup>th</sup> October 2020 which seeks to demonstrate a possible layout that responds to a revised width established for a proposed ecological corridor (mitigation land) along the southern boundary. The revised indicative layout also seeks to demonstrate a less car-dominant streetscape can be achieved following officer feedback on this particular point.

The proposal includes a revised access point that sits slightly east of the existing access point off the Totnes Road (A385). The centre point of the proposed junction being approximately 19m east of the centre point of the much wider existing access. In regard to design detail the access proposes a 6m wide carriageway into the site with a 2.5m wide footpath on the western side and a 3m wide foot/cycle path on the eastern side. The access proposal includes highway works to widen and re-align the A385 to provide a 30m long designated right hand turn lane into the site.

Beyond the access detail the information submitted is indicative as all other matters are reserved for future consideration. The additional information submitted is principally seeking to demonstrate that the level of development proposed could be appropriately achieved on the site. This detail includes an indicative masterplan layout that presents a potential residential layout aligned around a sweeping central road to the south-eastern corner of the site. This road is shown to extend to the edge of the site and to abut the adjacent field. This is made in reference to the aspirations of the adopted masterplan for the area, which depicts the motel site as a 'gateway site that will provide access to 'Phase 3' to the south east.

In addition to the central spine road the indicative layout presents a spur road to the east that connects to and provides access to the adjacent Beechdown Park, and a spur road to the west to serve dwellings along the southern border. There are also a 'secondary' road westwards which will serve the retained properties of Beechdown Court.

The indicative masterplan shows a mix of detached, semi-detached and short terraced properties, which appear to be served with a mix of off-road and courtyard parking facilities. Garden divisions that provide private space for all dwellings is also shown.

The principles of the layout show development that fronts the A385, which is expected to be set behind some form of landscaping, indicated as possibly taking the form of a Devon hedge bank with native hedge planting. The layout also includes the potential for some form of public open space near the southern border adjacent to the spine road, and there are shown to be opportunities for wider landscaping which include a replacement landscaped green buffer along the southern border.

In regard to visual character the supporting information includes some artistic street impressions that depict a mixed use of materials that suggest the use of render, stone and timber elements within elevations.

### **Pre-Application Enquiry**

N/A.

### **Relevant Planning Policy Context**

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

#### **Development Plan**

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

#### **Material Considerations**

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

### **Relevant Planning History**

#### **Pre-Applications**

None.

#### **Applications**

P/2015/0709: Demolition of motel buildings and erection of 33 dwelling houses with associated infrastructure and amenity land. Application Withdrawn.

### **Summary of Representations**



31 representation have been submitted in response to both the initial proposal for up to 70 dwellings and the re-advertised and amendment proposal for up to 39 dwellings with the retention of Beechdown Court. The submissions largely object to the scheme. There are two supporting submissions and 29 objecting submissions. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Impact upon traffic flows
- Further intrusion into the local landscape is not acceptable
- Foul drainage issues
- Surface water drainage issues
- Impact on access to Beechdown Park
- Field to the rear should not be lost to housing
- Overdevelopment
- Impact upon ecology
- Impact upon trees and landscape
- Contrary to the Neighbourhood Plan
- Impact of sewage on the protected marine environment

Supporting comments include:

- Support the development of brownfield sites
- Redevelops an eyesore at the entrance to Torbay
- Retention of Beechdown Court maintains a vital form of accommodation
- 

Objections include comments from the NHS.

#### Torbay and South Devon NHS Foundation Trust:

Torbay and South Devon NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. The NHS funding is dependent on activity it delivers and whether the Trust meets the quality standards and timeframes. The Trust is already delivering services over the capacity. This development will have a detrimental impact on the Trust's ability to continue to deliver services with required quality standards and timeframes. The following year's contract does not pay previous year's increased activity and the deficit created by the impact of the development. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development. The funding as outlined below, cannot be sourced from elsewhere. The lack of contribution will create a long term impact on the Trust's ability to provide service required to those who live in the development and the community at large. Without the contribution, the development is not sustainable and should be refused.

Therefore the contribution required for this proposed development of 70 dwellings is £61,925.00. This contribution will be used directly to provide additional health care services to meet patient demand.

*Officer response on the NHS 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 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. The site is identified for housing and it is 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 an identified housing site where growth levels are below the levels expected within the Development Plan. This view is consistent with the view taken on other major housing schemes within the area and across Torbay.

### **Summary of Consultation Responses**

#### **Paignton Neighbourhood Forum:**

The Paignton Neighbourhood Forum support this application in principle with a few reservations, noted here.

We have a major concern regarding the access to Beechdown Park: Is the access wide enough to accommodate a low loader containing a park home? We ask that this aspect of the plan is given additional thought.

Another major concern is that water run-off into stream should not be allowed under any circumstances. This water runs through a gully, which requires constant cleaning in Little Blagdon Farm, and then runs onto Stoke Gabriel. Note also that sewage capacity will not allow mixed use: sewage and water run-off. Please refer to Paignton Neighbourhood Plan, PNP1 (i) and 6.54.

We also note that back gardens facing onto Totnes Road may be unsightly.

#### **Torbay Council Drainage Engineer:**

Further to the additional information submitted relating to the surface water drainage design it is confirmed that the points raised within the previous consultation response dated 15<sup>th</sup> June 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 drawing (C11032- HYD-C-001 Rev P06) and hydraulic modelling (Reference C-11032 Revision E dated 19/6/20).

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.

It should be noted that Torbay Council have identified a flood alleviation scheme downstream of this development on the Yalberton watercourse. The scheme is currently identified on the Environment Agency's six year financial plan. As the surface water run-off from the proposed development is likely to impact on this watercourse upstream of the flood alleviation scheme a contribution to the funding for the flood alleviation scheme must be secured from the developer through S106 funding.

We can only really ask for contributions for new developments discharging to the watercourse. As a result, if there are only 39 new dwellings the contribution would be £563/dwelling = £21,957.

### **Torbay Council Strategic Planning (Policy) Officer**

The principle of redevelopment of the site is well established and supported. The site is part of a wider "Future Growth Area" in the Local Plan (Policy SS2 and SDP3) and is therefore an allocated site. The Collaton St Mary Masterplan was adopted as SPD in 2016 and is a material consideration. The Masterplan indicates that access from the Torbay Holiday Motel site will serve as one of the principal accesses serving the later phases of development of the SS2.2 area south of Totnes Road (the other main access being Little Blagdon Farm).

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 to follow, particularly in relation to detailed matters. Table 8.1 of the Neighbourhood Plan cannot be taken as a phasing policy, but nevertheless envisages the Motel site coming forward around 2020-2022; there is a general view that the current brownfield site should be prioritised. In this context I note that the PNP policies map stops short of the Motel Site, whereas the Local Plan Policies Map includes it. However, in this instance, the Masterplan shows the Motel site being redeveloped in the first phase of development and providing access to the wider development area; and Policy PNP24 requires development to be in accordance with the Masterplan. On this basis, I consider that the development plan, taken as a whole, allocates the site for development.

The site is included as a deliverable site in the Council's 2020 five year housing land supply schedule.

The scheme has been revised to retain Beechdown Court. In my view this is a bit of a missed opportunity to remove a building of no architectural merit. However, it has been established that the former holiday flatlets have a lawful residential use (following a 1987 Appeal decision). The current proposal achieves a pragmatic redevelopment of the bulk of the site and hopefully will not prevent a future redevelopment of Beechdown Court.

It is important that the access is of a sufficient standard to serve developments in later phases of the Collaton St Mary development, and that roads are built to the boundary and adopted with no ransom strip. Servicing of Beechdown Park is also required and the road network will need to show adequate access and manoeuvring area for occasional mobile homes.

Drainage is a significant issue in the Collaton St Mary area, but I note that there is various assessments of this, and David Stewart's memo of 26<sup>th</sup> June 2020 raised no objection subject to a S106 Obligation towards downstream flood alleviation. This would be a "site deliverability" matter.

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

The site is accessed via Totnes Road (A385) that forms part of the Torbay Major Road Network (Policy TA2). The proposal will serve as an access road to the wider SS2 housing allocation on the southern side of the Collaton St Mary Masterplan. Vehicular access to the adjacent Beechdown Park mobile homes will need to be retained to allow for both refuse collection vehicles and HGVs/ mobile homes access. The main spine access roads should therefore be constructed to adoptable standards and ensure that the adopted highway extends to the adjoining eastern and southern boundary without any ransom strips.

The Local Highway Authority seeks to ensure safe and suitable access with support of sustainable transport measures; the provision for highway improvements and future construction of access road constructed to adoptable standards with appropriate pedestrian and cycle access. The LHA seeks conditions for the submission of a final Travel Plan, Highway improvements via s278 agreement and an access roads built to adoptable highway standards. Section 106 planning contributions are requested for sustainable transport measures.

### **Policy Context:**

The NPPF (Feb 2019 paragraph 108) states that development plans should:

- *appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- *safe and suitable access to the site can be achieved for all users; and*
- *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.*

Within this context, applications for development should (paragraph 110):

- *“give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas ...and (so far as possible) facilitate access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.*
- *“address the needs of people with disabilities and reduced mobility in relation to all modes of transport;*
- *create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;*
- *allow for the efficient delivery of goods, and access by service and emergency vehicles; and*
- *...enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.*

- Para 105 of the NPPF allows Local Planning Authorities to set local parking standards, based on 5 criteria: accessibility; type, mix and use of development; public transport opportunities; local car ownership levels; and the need to reduce high-emission vehicles.
- Para 109. of the NPPF states that development can be 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.”*

Torbay Council’s Local Plan Transport Policies focus on the importance of accessibility. Local Plan Policies TA1 and TA2 (and TA3) are relevant. In addition, Paignton Neighbourhood Plan Policy Area Wide Sustainable Transport Policy, PNP1h) are particularly relevant.

### **Key Issues:**

#### Highway works/impact:

- The applicants have submitted a revised layout with the provision of a right turn lane on Totnes Road and a 6m wide carriageway and shared surface cycle/footways along the frontage of the A385 with visibility splays. The Highways officer has agreed this layout in principle with works within the adopted highway will be subject to a Section 278 agreement. However there are some aspects which require revision. A revised plan which includes the full extent of the proposed highway works, including the extent of the highway frontage and how cyclists will join the shared surface from the carriageway should be submitted.
- The proposed main access point from Totnes Road will require alterations to the A385, with a change to the existing right turn facility for vehicles travelling east and turning right into the development. These works could be achieved via s278 Agreement.
- Various signage, Road Traffic Orders will be required. A variation to Road Traffic Orders (A385) will be required as part of the revised road layout. £2000 funding for legal costs will therefore need to be secured.
- Construction Traffic: A Construction Management Plan should be submitted. The works required via 278 to create the right turn lane into the site may also need to be constructed prior to works on the development site, to ensure there is a safe access for construction traffic.

#### Car Parking:

- Local Plan Policy TA3 Appendix F sets out the parking standards which includes provision of disabled spaces, electrical car charging points and cycle spaces.
- Planning Contributions: Torbay Local Plan Policy SS7 and the Torbay Planning Contributions and affordable Housing SPD will also apply (to the non affordable dwellings). In the case of Sustainable transport it is indicated as “trip rate x £171” per 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 detailed planning application. This funding

would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

- Torbay Local Plan Policy SS6.2 and SDP3, indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted in the Planning Contributions and Affordable Housing SPD, this is estimated at £1m (para 4.2.7) and it is appropriate to divide that amongst the properties proposed, using the numbers as set out in the Adopted Masterplan. In total, the Adopted Masterplan supports approximately 460 homes (£2,174 per dwelling). That same Adopted Masterplan estimates 39 dwellings on this site. Therefore £87,786 towards the development and implementation of the scheme.
- Travel Plan: Provision of a final Travel Plan with Travel Plan Co-ordinator, setting out provision for 30% modal shift (by foot, cycle and public transport) prior to occupation. Welcome packs should include sustainable travel incentives and should be sent in advance of occupation, at a suitable contract commitment.
- A Grampian condition to ensure Beechdown Park will retain adequate vehicular access (or suitable alternative) at all times both during and after construction.
- A Grampian condition/s106 Agreement to ensure vehicular access via an adoptable standard road to the adjoining Blagdon Farm land on the southern boundary

Conclusions: The current outline proposal with all matters reserved except access is acceptable provided that highway improvements; vehicular access provision; sustainable transport measures; car parking and planning contributions are to be secured.

### **Torbay Council Ecology Advisor:**

#### European Sites: South Hams Special Area of Conservation

The site is within the Landscape Connectivity Zone for the South Hams SAC with respect to Greater Horseshoe Bats. The proposals will lead to a loss of commuting habitat (0.1ha broadleaved woodland, 0.1ha of hedgerow, 0.1ha scrub and 0.18ha grassland) which has been confirmed through survey to support small numbers of commuting Greater Horseshoe bats. It is believed that this scheme will cause damage or disturbance at a landscape scale to GHB commuting routes, and a Likely Significant Effect on the South Hams SAC in the absence of mitigation. Therefore, an HRA is required to be produced and agreed with Natural England. Also, loss of a GHB roost from building B2, which is deemed to support individual GH bats.

A hedgebank and belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin, is to be provided to the south of the site. This belt of vegetation will be protected from over grazing by a stockproof fence. A temporary 3m high close board fence to be installed adjacent to the northern side of the Devon hedge to act as a temporary light shield. This will allow the GHB flight line to remain undisturbed in perpetuity. Management of this flight line should occur by a dedicated management company to ensure suitable management in perpetuity, which will need to be detailed in an agreed LEMP.

A replacement bat roost with bat dormer in a purpose-built bat building will be provided. The roost design will be suitable for greater horseshoe bats as it will be situated in the

south-east of the site adjacent to the new hedge bank. Management of this roost site will need to be in perpetuity.

A Habitat Regulations Assessment / Appropriate Assessment has been completed. Provided the mitigation measures are secured by condition, there will be no adverse effect on the integrity of the South Hams SAC alone or in-combination with other proposals or projects.

The details for reserved matters will need to include the submission of a Construction and Environmental Management Plan which will include details of environmental protection throughout the construction phase. This will need to be agreed with the LPA. The details for reserved matters should also include the submission of a detailed Lighting Strategy for agreement with the LPA. In addition the development if permitted should be implemented strictly in accordance with the recommendations and requirements stated in the Ecological Impact Assessment (The Ecology Consultancy, 27 February 2020), Evidence in support of a Habitats Regulations Assessment – Draft for Consultation (The Ecology Consultancy, 27 February 2020) and the Torbay Holiday Motel, Greater Horseshoe Bat Mitigation – Additional Information (The Ecology Consultancy, 03 July 2020) as amended by the Greater Horseshoe Bat Mitigation – Addendum (The Ecology Consultancy, 28 September 2020), subject to any variation required by Natural England under any license it may issue.

#### Priority Habitats

There will be a loss of 0.1ha species-poor hedgerow and loss of 0.1ha of broadleaved woodland. A hedgebank and 3m wide belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin is to be provided to the south of the site. This is to be kept at under 0.5 lux. The details for reserved matters should include the submission of a Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and management. This will need to be agreed with the LPA.

#### Other Habitats

There will be a loss of 0.11ha of scrub and 0.18ha of semi-improved grassland. A hedgebank and 3m wide belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin is to be provided to the south of the site. This is to be kept at under 0.5 lux. The details for reserved matters should include the submission of a biodiversity metric calculation which uses the most up-to-date metric and associated guidance documents. This calculation is to secure a net gain in biodiversity.

#### European Protected Species

Roost emergence surveys undertaken throughout summer 2019 on multiple buildings with activity relating to Common Pipistrelles, Lesser Horseshoe and Greater Horseshoe bats. The impact is the loss of these roosts. The mitigation is to provide a bespoke bat building and roosting provisions within new buildings onsite. All demolition works will need to be undertaken under a European Protected Species licence from Natural England. Details of roost design (as provided in ecology report) will need to be conditioned. The details of reserved matters shall include bird nesting/bat roosting boxes in the design of the buildings. No works shall commence until the LPA has been provided with a copy of the licence for Bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species

Regulations 2017 (as amended) authorising the works to go ahead, or confirmation in writing from Natural England that such a licence is not required.

#### Other Protected Species

**Badgers:** Signs of badgers checked when site walkover undertaken. No signs of badger present during site surveys. Prior to the commencement of any site works a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, should be submitted to and approved in writing by the local planning authority.

**Nesting Birds:** Loss of habitats suitable of supporting nesting birds. Nests of three species found within multiple buildings. The proposed mitigation is the removal and demolition during winter and roost provision in new buildings. The details of reserved matters should include bird nesting/bat roosting boxes in the design of the buildings. A condition to ensure no building demolition or vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept, should be attached.

#### **Torbay Council Affordable Housing Team**

Affordable housing should be secured in accordance with the Council's adopted policy.

#### **Torbay Council Education Team**

I can confirm that we would want to see education obligations should it be approved by members.

We are still in the midst of managing the existing growth in pupil numbers in the Paignton area - particularly in the older year groups of primary and in the whole of the secondary sector.

Whilst our pupils forecasts do allow for some growth from housing developments it is only the yield from those schemes that have already obtained planning permission- so this scheme and any others that are yet to be approved are not included in our forecasts and will put additional pressures on places across the area.

#### **Torbay Council Arboricultural Officer**

The reports and plan satisfy the arboricultural requirements for submission. Many of the trees are low category and scheduled for removal. A number of B category trees are scheduled for removal to provide access to the site and beyond. Conclusion is that despite the loss of trees there will be ample opportunity to provide a robust planting scheme. Recommendation is that the submission of a robust landscape scheme providing mitigation for the expected tree loss to be submitted to, and agreed with, Torbay Council, and that a prior to commencement of development a Tree Protection Plan and Arboricultural Method Statements are submitted.

#### **Natural England**

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended) pertaining to the South Hams Special Area of Conservation (SAC). Natural England is a statutory



consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

The appropriate assessment concludes that the authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Please note that our previous advice has been misinterpreted – we did not request that the new hedgebank should be 3m wide. Should the hedgebank width be amended to a standard Devon hedgebank width, we advise that the surplus from the hedgebank width is added to the mitigation buffer in order to not diminish the overall mitigation provision. In addition, establishment of species-rich sward in the buffer is dependent upon suitable soil conditions. If the soil analysis (required at reserved matters) is not suitable for a species-rich sward establishment, then additional mitigation measures will be required to ensure that the overall mitigation balance is achieved. We advise that these aspects are integrated into any planning conditions that you seek to apply as part of determining this application. Further, reserved matters will need to carefully consider the practicality of proximity of residential units along the southern boundary, and whether this will limit the scope of this mitigation feature due to conflicting management expectations.

### **South West Water**

South West Water has no objection.

Previous comments on the general position at Collaton St Mary regarding capacity concerns:

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

**Environment Agency**

No comment supplied.

**RSPB**

No comment supplied.

**Torbay Council Waste and Recycling Officer**

With regard to the proposals made for waste and recycling storage and collection, I have no objection to this application. I understand that the finer details of the waste and recycling facilities will be provided at a later date as part of a reserved matters application and would be keen to see the principles outlined in the Waste Management Plan, put successfully into practice.

**Police Designing Out Crime Officer**

No comment received on revised proposal. Comments on pre-revision proposal for up to 70 dwellings as follows:

It is appreciated that the application is for Demolition and Access approval at this time but as a new residential development of up to 70 dwellings has the potential to impact on crime and disorder in some capacity, I welcome early consultation with regard to any future reserved matters application, specifically with regard to the design and layout of the proposed scheme, to ensure a consistent level of security throughout and opportunity for crime, fear of crime and disorder are minimised.

In the meantime please find the following initial information, advice and recommendations to assist and for consideration:-

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

ADQ creates security requirements in relation to all new dwellings. 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 external doors and accessible 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.

The above to 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 – to include secure cycle storage
- 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.

It is appreciated that parking for new development can be a contentious issue but it is vital that the provision for the proposed scheme is considered to be both sufficient and practical when balanced against the overall schedule of accommodation to do all that is reasonable in minimising opportunity for vehicle related complaints and issues such as inconsiderate or obstructive parking, as these can easily escalate into criminal and antisocial behaviour amongst residents (shouting, swearing, assaults, damage etc.)

With regard to 'practical' parking there is ever increasing evidence from some new development in the county where the 'Tandem' design of parking is not being embraced by occupants of multi vehicle households, perhaps due to being inconvenient or just awkward to use, resulting in the 2<sup>nd</sup> (or 3<sup>rd</sup>) vehicle being parked 'elsewhere' just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development but this number will be much reduced if the spaces are not being utilised. In addition the problems associated with tandem parking are further exacerbated when they are designed to the front of a garage or car port.

Please do not hesitate to contact me if I can assist further or any clarification is sought with regard to the content of this response.

## **Key Issues/Material Considerations**

### **Planning Officer Assessment**

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

#### **1. Principle of Residential Development**

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

1.2 The Torbay Local Plan offers some specific reference to the site within the accompanying explanatory text to Policy SDP3 where it states that a smaller amount of housing (around 40 dwellings) is possible in the shorter term at the former Torbay Holiday Motel, which is an under-used brownfield site.

1.3 The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development and identifies the site as being 'Phase 1', with introductory commentary as follows;

*At the western end of the village is the vacant motel site. It is surrounded by occupied uses on either side, including a static caravan site along its eastern boundary and a car showroom and dwellings to its west.*

*The development of this site will affect the long term viability of the rest of the masterplan proposals. This first phase needs to be designed and laid out in such*

*a way as to ensure that access is safeguarded to future phases further east. In essence, this first phase will form one of 2 major gateways into the southern part of the masterplan. Therefore, its primary value is not in achieving maximum housing numbers on the site but rather in providing a gateway into a larger area.*

1.4 The expected number of units within the Masterplan's schematic proposal suggests the delivery of between 25-30 houses, together with a small area of public open place space, a safeguarded link into 'Phase 3' area to the east, and retained future access links to the park home site.

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

1.6 It should be noted that the application site includes a linear section of the adjacent field, a strip that is around 20m in depth, which is not referenced or included for development within the adopted masterplans commentary, although it does sit within the Future Growth Area identified within the TLP. The inclusion of this additional parcel of land is not considered to present any overriding conflict of policy in terms of broad principle as the addition is relatively limited and the site is principally that of the motel site. The impact of the inclusion of this land should duly consider landscape and ecology impacts though, which will be discussed in later sections of this report.

1.7 Due to the reasons stated above there is deemed to be a consistent policy umbrella that supports the principle of the site's redevelopment to provide housing. The principle of residential development is therefore accepted, when considering strategic policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, and the Development Plan as a whole. This is purely a matter of principle and the broader merits of the proposal and other material considerations, will be discussed in more detail in the following sections of the report below.

## **2. Design and Visual Impact**

2.1 Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all matters reserved for future consideration, the submitted information does include an indication of a proposed site layout and the likely detail on the character and appearance of the development. It is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 39 dwellings with the retention of Beechdown Court) could be appropriately achieved in terms of its layout, design and its resultant character, without undue visual impact.

2.2 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.

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

2.4 In terms of the proposal the application is supported by a recently amended indicative masterplan that presents how the amount of development could be laid out within the site. The supporting landscape masterplan has not been amended but still presents a potential strategy for the site. there is also some submitted artistic impressions of the frontage street-scene and the central street-scene, that offer a potential understanding at a possible design ethos and general character. The Design and Access Statement that accompanies the application has recently been updated to align with the revised strategy for the site to offer a design commentary to explain the schemes evolution and design rationale.

2.5 It is noted that updated consultee comments received from the Paignton Neighbourhood Forum do not cite a concern in terms of design and visual impact, where the previous proposal for up to 70 units raised concern of “chronic over development”.

2.6 In regard to the most recently revised outline proposal submitted for consideration it is deemed that the broad layout presents a satisfactory foundation that a future reserved matters could be evolved from, insomuch that it provides an acceptable entrance to the development that is safe and legible, that leads to direct and legible central route for what will be the main route through to a later phase of the masterplan area. This appears a reasonable approach and is detailed to provide access to the edge of the site to enable future linking to the wider masterplan development to the east (Phase 3), a key component that accords with policy guidance. In regard to other positive foundations the layout also presents the

maintenance of an access to Beechdown Park to the east, which again aligns with the adopted masterplan's expectation of a future link being engrained within any redevelopment.

2.7 Moving away from the general parameters of the layout and on to the likely form of development that it may inform the current layout is considered to present a relatively uniform density throughout. This is a point of concern that would need to be addressed by further design work to inform a future reserved matters application. It is considered a key urban design principle that any future layout responds to the context and presents a hierarchy to the streets. The central spine does appear to have been improved though through the recent amended indicative plan, in terms of it having a clear status as a through route. The orientation and direct nature of the route supports the potential of it being legible as a through route and greater scrutiny at the detailed reserved matters phase should ensure it delivers in terms of delivering on the rural, rather than suburban, form for this edge of settlement 'gateway' site. On a positive note the suggestion of having frontage development addressing the Totnes Road is welcomed as a principle, certainly where it is married with a demonstrable landscape buffer, which itself is likely to slightly soften the development and improve future residential environment of occupants adjacent to what is a busy and somewhat noisy road.

2.8 In regard to other notable points regarding the indicative proposals there were areas within the development that present unduly prominent parking solutions that would lead to a somewhat suburban character if not evolved further. This matter has been sought to be addressed by the revised layout showing the potential to utilise rear parking courts, which permits a much less parking dominated streetscape. The most notable areas of concern were the spurs roads to the east and west where the accumulative provision appears relatively dominant and these streets appear far more positive now. It is however still concluded that further design evolution is required within this aspect of the development moving forward to inform a future reserved matter application.

2.9 Moving on the likely built form the layout plans and indicative street-scenes present buildings with a mixed palette of materials (elements of stone, render and timber) behind what appears largely open plan frontages mixed with parking. As previously stated the extent of frontage parking has been reduced by posing the opportunity for rear parking courts. A mixed parking provision is not objected to in design terms and rear parking could improve the streetscenes by reducing the car dominance. This could help produce stronger rural character of the South Devon village vernacular. It is expected that any future reserved matters would need to evolve a stronger design assessment and solution to capture a rural character, which should present less dominant parking, strong landscaping, and strong enclosures and definition between public and private space. In regard to the materials the use of natural materials and tones is welcomed but there is some concern that the indicative designs do not sufficiently reflect the local rural character. It is noted that rural village development generally relies on natural materials but buildings and building groups are often simple in terms of the palette, often an outcome of the sporadic expansion of villages in small phases. This presents a more pocketed variation of simple palettes rather than the repetition of two of three materials within each property, as presented. It is considered that any future reserved matters should be robustly supported by

appropriate design analysis in terms of delivering an edge of settlement and demonstrably rural character.

2.10 In terms of the resultant quality of any future residential environment the layout largely resolves satisfactory outlooks and levels of privacy. Notably the properties fronting the Totnes Road are expected to be set back behind a landscaped frontage, which is likely to aid the residential environment adjacent to such a busy road. The suggested distances between properties are largely adequate although there are certain relationships that may need easing, largely due to the distances to blank walls. The layout is likely to require some further scrutiny to resolve the proximity through the development as it evolves to a more detailed scheme and reserved matters. The garden areas in the indicative layout are largely compliant with the expectations for at least 55sqm within the Development Plan, but there are areas of concern with some gardens falling demonstrably below the policy position. Further design work is considered necessary as the scheme evolves to a detailed solution. In regard to parking there are broad proposals to provide the expected level of parking as indicated within the Development Plan. It is important that a future reserved matters ensures that the level of parking afforded Beechdown Court is not impacted by any necessary softening of the development with additional landscaping. This should not limit the softening of the retained buildings which are likely to require enhancement to their setting. It is also important that any future reserved matters addresses some minor concerns on the sufficiency of space afforded certain areas of parking. It is principally noted that tandem spaces that adjoin neighbouring parking, and parking spaces that abut walls or other obstructions, should be wider than 2.4m, and accord with the provisions of the current Torbay Highway Design Guide.

2.11 In regard to landscape impact Policy PNP19 (*Rural Character Areas*) of the Paignton Neighbourhood Plan offers key guidance as the motel site, as although a brownfield site it sits in the designated rural area (as does the adjacent Beechdown Park). Policy PNP19 does not expressly preclude development, but seeks development that does not damage its quality and the relationship between urban and rural areas. In this instance it is considered, if a future reserved matters application presents development loosely aligned with the proposed layout and is adequately resolved in terms of character, that any impact upon the character of the wider area is unlikely to be adverse, when considering the current development and the expected retention of a substantial rural backdrop to the higher ground to the south. Again this will be more robustly considered at reserved matters stage.

2.12 In summary in terms of design and visual impact the outline proposal provides a loose basis for a future reserved matters application. There is sufficient comfort that up to 39 dwellings and the retention of Beechdown Court could be delivered in order to offer support for this outline application. Although improved there are still some concerns over the current indicative masterplan, however there is considered to be sufficient scope within the site and potential to positively resolve the points of concern. This may require considerable further design work and reconsideration of the form of development, scale of buildings and layout.

2.13 It is noted that the scheme has not engaged with an independent design panel. Government policy supports us of such 'tools' and as there is substantial concern in terms of the indicative detail the applicant is advised that prior to any future reserved



matters the evolving design work includes engaging with an independent design panel. This should hopefully provide scope to consider and address the concerns offered on the current indicative layout and inform a satisfactory solution for 39 dwellings within a different form and/or a reduced number.

2.14 To conclude it is considered that the proposed access arrangements would not result in unacceptable harm to the character of the area. Based on the indicative information provided, the proposed development is, for the reasons above, considered to sufficiently demonstrate the potential to provide a satisfactory form of development subject to further work to resolve the concerns raised. Thus the proposal is on balance considered to be in accordance with Policies SS2, SS3, H1 and DE1 of the Torbay Local Plan, Policies PNP1, PNP1(c) and PNP24 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF, and suitable for outline approval.

### **3. Impact on Heritage Assets**

3.1 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.

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

3.4 In terms of the heritage context the listed buildings in the area do not sit immediately adjacent to the site and hence their direct settings would not be impacted. In addition there are no obvious or overtly sensitive visual links to listed buildings which could possibly present harm to their settings. Finally the kinetic relationship has also been considered and the redevelopment of the defunct motel site for residential purposes will not overtly alter how you experience and pass through the area and appreciate the listed buildings nearby. Blagdon Manor (Grade 2\*) is the nearest listed building, sitting approximately 200m to the north across the A385 and nestled on the far edge of a holiday park. Further afield approximately 800m to the east a group of

listed buildings sit around the junction of the A385 with Blagdon Road, which include the Grade 2\* Parish Church. There are also listed barns (converted) approximately 1km away to the north east at the junction of the A385 with Stoke Road.

3.5 In light of the context of the site and how it relates to the listed buildings on the area there is no harm. The proposal is considered, in terms of heritage assets, in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 of the NPPF.

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

#### **4. Impact on Residential Amenity**

4.1 Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1.

4.2 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. The retention of adequate residential access during construction phase to the adjacent park homes site and retained units within the site should be duly protected through consideration of a construction management plan, secured by condition.

4.3 In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area or the school.

4.4 In terms of scale and appearance this will be established within a future reserved matters application, but there is unlikely to be any loss of outlook or light due to the modest scale of residential development.

4.5 In terms of privacy, inter-visibility and overlooking, again when considering the distances involved, and taking into account the topography, the relationships will be scrutinised in detail during the reserved matters process where more detail on property locations, level and elevation openings will be available. Any likely impact is likely to be contained to the relationship across the eastern border with the park homes, in terms of overshadowing and overlooking, where the land drops eastwards.

4.6 In summary the proposal appears to demonstrate the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers, but greater scrutiny on this will be undertaken at reserved matters stage. On the information available the development offers scope to deliver development that accords with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

## **5. Impact on Highway Safety**

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

5.2 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.

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

5.4 In regard to vehicular access the development would be served by a single new access junction which includes a right hand turn lane off the Totnes Road. The visibility standard of the junction is considered acceptable by the Highway Authority. The Councils' Highway Engineers and Strategic Transport Officer have considered the junction detail and supporting transport information and has raised no objections in relation to the proposed vehicular access arrangements. It is considered that the proposal would not result in significant harm to highway safety or amenity and would accord with local and national guidance.

5.6 The proposed site layout is not being applied for at this time however indicative details have been provided, including the proposed pedestrian/cycle link along the frontage. This is supported.

5.7 On the information provided the wider pedestrian, cycle and bus access opportunities shown are considered acceptable. The junction is designed to be a major access road with 6m width carriageway suitable for bus movement. This accords with the expectation within the adopted Masterplan for the spine road to be designed as such. A future reserved matters would consider the design standard within the site of the roads beyond the initial access point which is sought in detail. Ultimately further scrutiny will be given to the internal layout at reserved matters stage.

5.8 In regard to other matters Torbay Local Plan Policy SS6.2 and SDP3 indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. As noted within the Councils previous combined highway and transport comments the Planning Contributions and Affordable

Housing SPD estimates improvement works to circa £1m (para 4.2.7) and based on the scale of the development proposed a proportionate funding level of £87,786 towards the development and implementation of this scheme should be secured (via S106 legal agreement). These comments are still considered relevant and subject to confirmation the obligations should be sought in-line with previous levels suggested.

5.9 In terms of other matters funding to secure improved sustainable transport links should be secured in accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to the open market dwellings). This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. Again this obligation should be secured via a S106 legal agreement in-line with previous transport comments unless otherwise confirmed, based on the final design secured within a future reserved matters application.

5.10 Various signage, Road Traffic Orders will be required to reflect the future layout. A variation to Road Traffic Orders (A385) will be required as part of the revised road layout. £2000 funding for legal costs will therefore need to be secured.

5.11 Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

## **6. Ecology & Biodiversity**

6.1 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.

6.2 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.

6.3 In terms of the ecology context the site is a brownfield site with unkempt buildings and areas of overgrown scrub and occasional trees, which also encompasses a section of the field to the south and boundary tree belt.

6.4 The application is supported by a number of ecology-based documents. These include a shadow Habitat Regulations Assessment as the site lies within an identified landscape connectivity zone associated for the Greater Horseshoe Bat (GHB) associated with the South Hams Special Area of Conservation (SAC).

6.4 Considering the context the key ecological issues relate to the use of the site by GHBs and the consideration of the likelihood of a significant effect, along with broader ecology considerations regarding notable habits, protected species and together with broader biodiversity enhancement aspirations.

6.5 In regard to the potential impact upon GHBs associated with the South Hams SAC the proposals include the creation of a 'dark' wildlife corridor (<0.5 lux) along the southern boundary, replacing the existing tree belt with a planted Devon Bank and incorporating a belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin to the south. It is proposed that the belt of vegetation will be protected from over grazing by a stockproof fence and a temporary 3m high close board fence is to be installed adjacent to the northern side of the Devon hedge to act as a temporary light shield whilst the Devon Bank matures. This will allow the GHB flight line to remain undisturbed in perpetuity. Management of this flight line should occur by a dedicated management company to ensure suitable management in perpetuity, which will need to be detailed in an agreed Landscape and Ecological Management Plan. The Council's ecology advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment following the submission of revised mitigation detail in October, which has concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. The Council's HRA/AA has been submitted to Natural England for comment and they concur with the conclusions of the Council's ecology advisor.

6.6 In regard to wider ecology considerations there is evidence of bat roosting within buildings and the proposal includes the provision of a dedicated bat building adjacent to the dark corridor along the southern boundary of the site.

6.7 The Council's ecology advisor has concluded that that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

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

6.10 In-line with the conclusions above the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan, Policies PNP1, PNP1(a) and PNP1(c) of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **7. Flood Risk and Drainage**

7.1 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).

7.2 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.

7.3 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.

7.4 The site sits in an area with a low risk (Flood Zone 1) of flooding and the site is also within a Critical Drainage Area as designated by the Environment Agency.

7.5 A flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans.

#### Surface water

7.6 In terms of surface water the Flood Risk Assessment confirms that the existing 'brownfield' site positively drains surface water run-off to an existing private drainage network through the neighbouring caravan / mobile home park to the existing watercourse on the eastern site boundary. An initial Ground Investigation has shown, via percolation testing, that infiltration is not a viable option for surface water disposal at the site. As such, it is proposed that surface water be discharged at a restricted rate to the existing watercourse to the east, with on-site attenuation provided.

7.6 The Council's drainage engineer has reviewed the proposal and has concluded that the submitted detail demonstrates that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, subject to a final layout for the development and design being submitted to the planning authority for approval prior to construction works commencing on site. This can be achieved by a planning condition. This is considered to accord with Policy PNP(iv) as there is a detailed scheme that shows that an appropriate surface water management system can be

achieved for the indicative layout. By necessity as this is an outline scheme the layout may change and hence any future reserved matters would need to be accompanied by a detailed strategy that responds to the final proposed layout should outline consent be granted.

7.7 In terms of other matters there is an identified flood alleviation scheme immediately downstream of the development on the Yalberton watercourse and the council's drainage engineer has identified that as the surface water run-off from the proposed development is likely to impact on this watercourse a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a figure of £563 per dwelling has been identified, which would present an obligation from this development to the flood alleviation scheme to the sum of £21,957 (39 x £563).

7.8 It is noted that the Paignton Neighbourhood Forum has cited a major concern in terms that water run-off into stream should not be allowed under any circumstances, as it is stated that this water runs through a gully that requires constant cleaning in Little Blagdon Farm, and then runs onto Stoke Gabriel. In terms of some context on this matter the use of the watercourse is in accordance with the hierarchy stated within the Local Plan, where when other sustainable methods/soakaways have been discounted due to drainage limitations of the land the preferred option is the use of a watercourse. The use of watercourses being a more preferable solution to surface water sewers/highway drains, or combined sewers. In addition in terms of the Forum's concerns it is relevant to note that the exiting development currently drains into this watercourse and the proposal will present a betterment to the current situation, as the scheme will deliver a controlled discharge to the watercourse equivalent to a greenfield run off rate. Both points are particularly relevant bearing in mind the Forum's concerns and considering the drainage officers advice and the summary position and conclusion in this report.

#### Foul water

7.9 In terms of foul water the Flood Risk Assessment confirms the site currently discharges foul water to a foul sewer within the neighbouring caravan / mobile home park to the east. This sewer discharges to a pump station, which in turn pumps foul flows to a public foul sewer in Totnes Road. It is proposed that foul water from the site be discharged via a gravity system to the existing sewer on the eastern site boundary.

7.9 South West Water do not object to this proposal.

7.10 It is noted that there is a high degree of public concern relating to the impact of foul sewerage and the inability of the local infrastructure to cope with the additional level of development proposed.

7.11 It is noted that South West Water have previously carried out a review and provided reassurance that South West Water can provide foul sewerage services to cater for new development in the area. They confirmed that with regard to the specific area of Collaton St Mary that this has also been reviewed by the Supply and Team Strategy Team using information received at pre-planning stage, by the Local Planning

Authority, and growth forecasts and enquiries from developers. The strategic planning work that is subsequently required is usually planned into a 5 year business planning cycle, unless circumstances indicate otherwise, with the aim to ensure that:

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

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

7.12 in addition in regard to Collaton St Mary as an area of public concern South West Water outlined in December 2019 that there had 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.

7.13 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 have 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.

7.14 Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final surface water drainage design for approval, together with the funding above being secured. The proposal is considered, subject to the above, in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **8. Low Carbon Development**



8.1 Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy PNP1(f) of the Paignton Neighbourhood Plan has a similar policy goal towards achieving sustainable low carbon and energy efficient development, where appropriate and subject to viability.

8.2 An Energy and Sustainability Statement has been prepared to assess the potential for energy efficiencies, utilising clean energy, sourcing energy from decentralised systems and incorporating renewable energy provision into the development, as required by Local Plan policy ES1 (Energy), where the assessment of individual dwellings has been based on indicative house types.

8.3 As an outline proposal a detailed assessment will need to be undertaken to inform and be part of a detailed reserved matters proposal. At the present time the report identifies scope for energy efficiencies and the use of solar panels which together is suggested to exceed policy requirements. The current application reflects on the outline nature of this proposal and suggests that a further energy assessment would be required by condition to explore opportunities for further energy efficiencies when the design of the development is progressed.

8.4 It is suggested that based on the modelling undertaken it is possible to reduce on-site carbon dioxide emissions of the proposed Former Torbay Motel development by 111.4% should the specification described in the accompanying reports be implemented.

8.5 As matters stand the outline application has duly considered policy desire to reduce emissions and use of natural resources. As highlighted above it is necessary that these evolving aspirations are explored and evolved and are engrained within a future detailed reserved matters application. It is proposed to secure such detail by the use of a planning condition relating to energy efficiently and the submission of such detail as part of a future reserved matters application.

## **9. Other Considerations**

### *Housing Supply*

9.1 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 site is allocated and the proposals are in broad accordance with the adopted masterplan for the area.

9.2 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.

9.3 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 a 3 year supply, which is a significant shortfall.

9.4 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 as it triggers a tilted balance in favour of sustainable 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 identified 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 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. The proposed development will provide a play area as a social benefit to the village and financial contributions will be provided towards education infrastructure demands.

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.

NHS requests for financial contributions towards health care however cannot be accommodated within the current Development Plan framework as the development was anticipated within the Local Plan and no need for financial contributions was identified at that time.

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, ecology and bio-diversity and surface and foul water drainage. These matters have been 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. It has to be appreciated that the site is identified for housing within the Development Plan and is a semi-derelict brownfield site for the most part.

The proposed development is in a sustainable location inasmuch as it borders and forms part of the existing urban area and is located in close proximity to local amenities of West Paignton where there are also 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:**

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.

#### **Access Agreement**

Agreement with all necessary landowners to provide unrestricted access to the broader masterplan phase to the south east of the site to ensure comprehensive development of the wider masterplan area is not compromised.

#### **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 £87,786 towards the development and implementation of this scheme should be secured.

In order to undertake necessary traffic orders an obligation of £2,000 is required.

### **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 based on “trip rate x £171” per dwelling (or other alternative method as agreed). This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

### **Flood Works**

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. As there are proposed to be approximately 500 new properties constructed within the catchment drainage to the Yalberton Watercourse the contribution for each property should be secured. The level of funding should be secured based on a figure of £563 per dwelling. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £21,957 (39 x £563).

### **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 brownfield sites for schemes of 30+ dwellings that 20% should be affordable housing.

As the motel has sat empty for some years the existing floor space should be used at mitigation to reduce the obligation to provide affordable housing, in-line with guidance from Central Government.

As an outline permission the extent of affordable housing due cannot be offered until the detailed number and floor space of proposed housing is offered at reserved matters stage. However Members are minded to appreciate that the application of Vacant Building Credit is likely to demonstrably reduce, or negate altogether, the provision of affordable homes.

Notwithstanding the above the expected policy provision should be secured via a S106 with understanding of any provision being linked to the final reserved matters and subject to Vacant Building Credit.

### **Greenspace and Recreation**

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes a play area. The provision of a Locally Equipped Play Area is considered commensurate for the scale of development in the absence of further comment from the Councils Natural Environment Services Team. Legal agreement should secure adoption or management arrangements for the public open space secured in a future RM application commensurate with the indicative masterplan.

### **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.

### **Sustainable Urban Drainage System**

Details pertaining to the ongoing management of the proposed SUDs within public areas, by a management company, shall be secured in order to secure certainty on future maintenance and effectiveness of the system.

### **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 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.

### **Planning Balance**

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

The provision of a public play area is also a public benefit, certainly in light of the current absence of child's play facilities within the area. The nearest formal play area being at Claylands near the junction of Borough Road and Brixham Road.

### **Statement on Human Rights and Equalities Issues**

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European

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

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

### **Proactive Working**

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

### **Conclusions and Reasons for Decision**

The site is identified for housing within the Development Plan and the proposal does appear to have some broad degree of consistency with the associated adopted Masterplan for the area. Where there is divergence the level of harm is not considered sufficient to deny a presumption in favour of the development at outline stage where there is a further stage to scrutinise any divergence and ultimate harm).

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 may be a limited degree of impact upon the landscape setting by encroaching into the field to the south, however these impacts are not considered significant and are outweighed by public benefits. Again the level of harm will be scrutinised at reserved matters stage.

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

Due to the level of accordance with the Development Plan and in the absence of material considerations that weigh sufficiently against the proposal, the Officer recommendation is one of approval, subject to suitable conditions, and securing a S106 Legal Agreement to secure the identified mitigation, sustainable development obligations and affordable housing in-line with adopted policy, along with security on future access to the wider masterplan area to the south east.

The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need where the Council cannot demonstrate a 5 year housing land supply and is significantly below the level of housing growth expected.

### **Officer Recommendation**

Approval: Subject to;

1. The conditions outlined below, 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 heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to the Assistant Director of Planning, Housing and Climate Emergency.

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.

### **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. Bat Roost**

The reserved matters for layout and external appearance shall include details of the compensatory roosting provision (bat roost building), as indicated within the submitted ecology reports and indicative masterplan.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **3. Licence for Bats**

No works shall commence until the Local Planning Authority has been provided with a copy of the licence for Bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the works to go ahead, or confirmation in writing from Natural England that such a licence is not required.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

## **4. GHB Corridor Habitat Creation (HRA/AA)**

Prior to the commencement of any other development a traditional Devon hedgebank (3m wide) will be created and planted to the south of the site with native species of broadleaved tree and shrubs. The bank itself will be 1.5m in height, and the native species of tree and shrub will be a minimum of 1m tall when planted, achieving an immediate 2.5m hedgebank which will be managed into the future at 3m in height and 3m in width. A temporary 3m high close bordered fence will be erected to the north of the proposed hedgebank, and this will be removed once the vegetation on the hedgebank has reached 3m. A 5m wide herb-rich field margin buffer will also be created along southern site boundary prior to development.

Full details of the specification of the means of construction of this bank and a detailed planting schedule shall be submitted to and agreed in writing by the Local Planning Authority prior to its construction and development shall take place in accordance with the approved details. Any planting that becomes damaged, diseased or dies within 5 years of planting shall be replaced in accordance with the approved details.

This GHB corridor will be kept under 0.5lux and be a dark corridor to the south of the site. This belt of vegetation will be protected from over grazing by a stockproof fence to the south of the corridor.



The existing 120m species—poor hedgerow at the south of the site shall not be removed until this hedgebank and herb rich field margin associated with the proposed flight line have been planted.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

#### **5. Sensitive Lighting Strategy (HRA/AA)**

The details for reserved matters of layout and external appearance will include the submission of a detailed Lighting Strategy for agreement with the LPA. The strategy will ensure the proposed dark corridor to the south of the site is kept under 0.5lux and will demonstrate how current national and local lighting guidance for bats has been implemented (e.g. using warm coloured lighting). This will include details such as the following: artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with private residence.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

#### **6. Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas**

All reserved matters applications for layout and/or external appearance 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 (The Ecology Company, Feb 2020).

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

#### **7. No External Lighting**

No external lighting shall be provided within the site unless it accords with the details agreed by conditions 5 and 6 or is otherwise 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 and Policy PNP1 of the Paignton Neighbourhood Plan

#### **8. Construction Environmental Management Plan – Biodiversity**

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) Details of a 'controlled light zone' to be implemented on the replacement commuting habitat at the south of site during construction activities. This zone will be kept dark during peak bat activity periods (0.5 hours before sunset and 0.5 hours after sunrise during bat activity period of March to October) and spillage (where lighting is necessary) will not exceed 0.5lux.
- b) Risk assessment of potentially damaging construction activities.
- c) Identification of 'biodiversity protection zones'.
- d) 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).
- e) 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.
- f) 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.
- g) Responsible persons and lines of communication.
- h) 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 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **9. Landscape and Ecological Management Plan (LEMP)**

All reserved matters applications for layout and/or 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 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 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **10. Management of replacement commuting habitat**

All replacement commuting habitat will be annually managed to ensure adequate and effective establishment is taking place and to ensure that species and structural diversity is being maintained so the quality of the habitat is adequate. This work will be undertaken by a dedicated management company to ensure the new commuting habitat / flight line are managed appropriately in perpetuity (note that the management company will also manage the new bat roost required for planning). The future maintenance of the hedge will comprise traditional hedge laying / coppicing techniques, marking and retention of suitable trees to allow them to grow into standards, and suitable hedge trimming techniques to allow the hedgerow to mature and grow upwards to provide more shelter for bats, i.e. no hedge top flailing. This will allow the hedge to grow into a tall, robust hedgerow providing continuous cover and shelter from the development on the northern side. This will also allow the hedge to become thick and bushy and comprise lots of mature hedge trees with overhanging branches. The 5m herb—rich field margin will be managed as a meadow habitat, in order to support a wide range of floristic species which in turn will support a high diversity of insects.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **11. Ecological monitoring to provide early warning of threats to bat commuting routes**

All reserved matters applications for layout 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 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **12. Highway Adoption**

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 all of the estate roads, including the central spine road up to the edge of the site boundary.

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, including the provision of the spine road up the edge of the site boundary in the south-eastern corner of the site, in the interests of amenity and highway safety, in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030.

## **13. Highway Works**

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure the access works and ancillary works to the highway, which shall include a pedestrian access secured from the northeast corner of the site. The agreed works shall be delivered in accordance with the Agreement.

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

This need to be a pre-commencement condition as it relates to works outside of the application site and engagement of third parties.

#### **14. 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 the development unless a phasing plan has been submitted to and approved by the Local Planning Authority, and shall be subsequently maintained at all times 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.

#### **15. Biodiversity enhancement measures**

The details for reserved matters of layout and landscaping shall include the submission of a biodiversity metric calculation which use the most up-to-date metric and associated guidance documents. This calculation will secure a net gain in biodiversity.

The approved measures shall be implemented in full prior to the first occupation of the development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

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

#### **16. Badger surveys**

Prior to the commencement of any vegetation clearance or site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the LPA.

The development shall proceed in accordance with any approved detail.

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

#### **17. Nesting birds / bats**

The details of reserved matters for layout and external appearance shall include bird nesting/bat roosting boxes in the design of the buildings.

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

The development shall proceed in accordance with any approved detail. The bird and/or bat boxes shall be provided in accordance with the approved details prior to the occupation of the buildings to which they relate.

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.

### **18. 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.
- J) The maintenance of access to Beechdown Park and Beechdown Court

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 impacts of development are mitigated from the very start of development.

### **19. Travel plan**

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

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

### **20. 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 details shall include the provision of electric vehicle charging facilities to all dwellings.

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 Policies PNP1 and PNP1(f) of the Paignton Neighbourhood Plan, and Policies SS14, ES1 and TA3 (and Appendix F) of the Torbay Local Plan 2012-2030.

#### **14. 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. 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, Page 116, SS10, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

#### **15. Play Areas**

The reserved matters for layout and landscaping shall include details of local equipped play area aligned with the details 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 reserved matters for layout and landscaping shall include details of in which phase of development the play area will be provided and development shall take place in accordance with this phasing agreement.

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.

#### **16. 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.

#### **17. 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 14. 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.

#### **18. 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, in accordance with Policies DE1 of the Torbay Local Plan and PNP1(a), PNP1(c) and PNP24 of the Paignton Neighbourhood Plan.

#### **19. 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

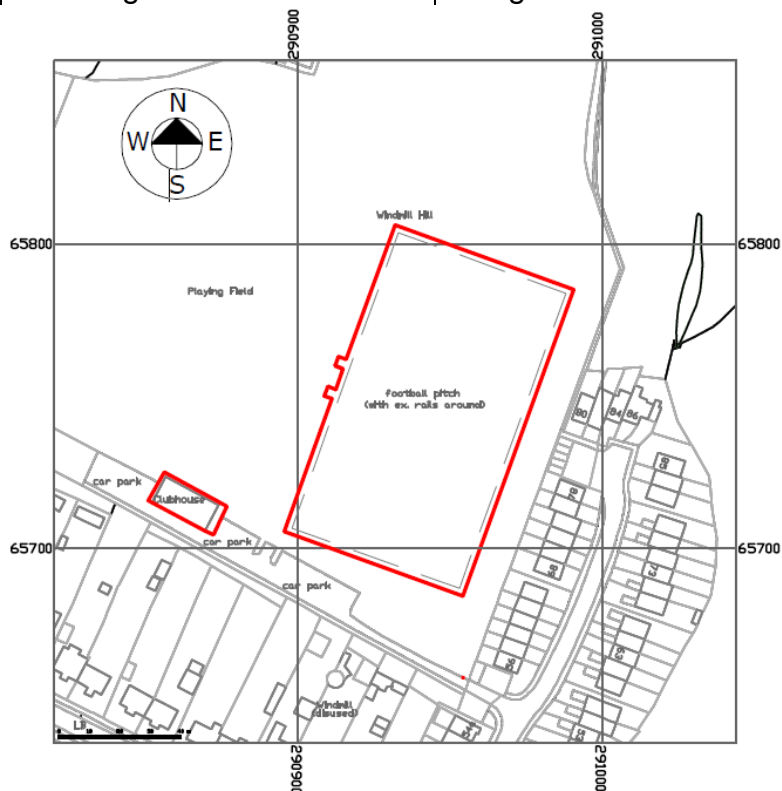


SDP3 – Paignton North and Western Area  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1LFS - Applications for new homes\_  
H2LFS - Affordable Housing\_  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood 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 energy efficient economy  
PNP1(g) – Designing out crime  
PNP1(h) – Sustainable transport  
PNP1(i) – Surface Water  
PNP24 – Collaton St Mary Village

## **TORBAY COUNCIL**

Application Site Address	Windmill Hill Sports Field Higher Audley Avenue Torquay TQ2 7PG
Proposal	Installation of dug-outs on football pitch.
Application Number	P/2020/0541
Applicant	Mr K Aplin, Walden Athletic Community Sports Club
Agent	RGS Architectural Design Consultants Ltd.
Date Application Valid	25.08.2020
Decision Due date	20.10.2020
Extension of Time Date	
Recommendation	That Planning Permission be granted, subject to the conditions detailed below, and that the final drafting of conditions and the addressing of any further material considerations that may come to light be delegated to the Assistant Director of Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	In accordance with the Council's constitution, which states that an application pertaining to land that is registered as a Torbay Council asset and to which one or more objections have been received, must be referred to the Planning Committee for determination.
Planning Case Officer	Craig Davies



**LOCATION PLAN**  
scale 1:2500

### **Site Details**

The site comprises the football pitch and clubhouse at Windmill Hill Sports Field, an area of public open space accessed from Higher Audley Road.

In terms of the designations within the Torbay Local Plan, the site forms part of the Hele Woods/Windmill Hill Woods Urban Landscape Protection Area and is located within a Community Investment Area. In addition, the land to the north of the site is designated as an 'Other Site of Wildlife Interest'.

In terms of the designations within the Torquay Neighbourhood Plan, the site forms part of the Windmill Hill Playing Fields Local Green Space

Date of officer site visit: 09.09.2020.

### **Description of Development**

The proposal is for the addition of two 'dug-out' structures on the western side of the football pitch on either side of the halfway line. The proposed structures would comprise of a powder-coated white aluminium frame, shatterproof perspex sheeting, and a timber bench, and would have a width of approximately 3m, a depth of approximately 1.2m, and a height of approximately 2.1m.

It should be noted that these structures are currently in use but are stored in a shipping container at Windmill Hill Sports Field and are carried into place for matches before being put away again after matches. The proposal is for these structures to be fixed in position at the side of the football pitch.

### **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 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**

- P/1980/2223: Changing Rooms (Hut). Approved 27.11.1980.
- P/1982/1024: Formation Of Sports Ground. Approved 13.07.1982.
- P/1985/3522: Retention Of Changing Rooms. Approved 24.04.1986.
- P/1986/2638: Erection Of A Sports Pavilion And The Provision Of Car Parking Areas. Approved 26.03.1987.
- P/1989/0483: Erection Of Sports Pavilion. Approved 19.04.1989.
- P/1993/1487: Cellnet Base Station Comprising 30m High Tower With Aerials; Single Storey Equipment Building And Security Fencing. Refused 04.01.1994.
- P/1994/0194: Cellnet Base Station Comprising 30m High Tower With Aerials, Single Storey Equipment Building And Security Fencing. Refused 11.07.1994.
- P/2013/0312: Extensions & Alterations to existing sports pavilion (readvertised 7 December 2016). Refused 13.01.2017.
- P/2017/0012: Extend wall, to include door at north elevation, infilling existing covered area, installation of security cameras to south, east and west elevations. Approved 04.05.2017.

### **Summary of Representations**

4 objections (representing 3 properties) were received in which the following matters were raised:

- Contrary to the lease agreement which precludes alterations.
- Anti-social behaviour.

### **Summary of Consultation Responses**

#### **Torquay Neighbourhood Forum:**

No comments received.

### **Planning Officer Assessment**

#### **Key Issues/Material Considerations**

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Neighbouring Amenity
4. Impact on Highways
5. Impact on Ecology
6. Impact on Flood Risk and Drainage

## **1. Principle of Development**

Policy SC1 of the Local Plan seeks, amongst other things, to promote healthy, safe and active living for all age groups. Policy SC2 of the Local Plan seeks, amongst other things, to improve access to sport, leisure and recreation facilities, particularly in locations that are accessible, subject to compliance with other policies in the Development Plan including those relating to residential amenity. The proposal would be a small scale improvement of the facilities for the football club that currently leases the site. The proposal is considered to be in accordance with Policies SC1 and SC2 of the Local Plan.

Policy TE2 of the Neighbourhood Plan states that, in areas designated as Local Green Space, development is ruled out other than in very special circumstances for which one of the examples given is minor improvements to facilities that support their use for public recreation or amateur sports. Policy TSL3 of the Neighbourhood Plan seeks to retain existing playing fields and sports fields. The proposal, which would improve the facilities supporting the use of the site for amateur football, is considered to be in accordance with Policies TE2 and TSL3 of the Neighbourhood Plan.

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

With regard to the objectors' statement that the proposal is contrary to the lease agreement which precludes alterations, it is noteworthy that Torbay Council's Head of Assets & Facilities Management has indicated that the lease agreement allows alterations subject to the prior written consent of the landlord (Torbay Council), which has been provided. However this is not a material planning consideration.

## **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 TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character and reflect the identity of its surroundings. Policy C5 of the Local Plan states, amongst other things, that development within Urban Landscape Protection Areas (ULPAs) will only be permitted where it does not undermine the value of the ULPA as an open or landscaped feature within the urban area.

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

value of the ULPA as an open or landscaped feature. The proposed structures would be relatively small in size and would be lightweight additions predominantly comprising of visually permeable Perspex set within an aluminium frame. Given that the site has a visual character of being used for amateur sport and recreation (due to the presence of the goals, the football pitch markings, the railing around the football pitch, and the clubhouse and changing rooms), it is considered that the proposal would not alter the character of the site. A condition is proposed requiring the removal of the structures in the event that the site ceased to be used for amateur sport.

Subject to the said condition, the proposal is considered to be in accordance with Policies DE1 and C5 of the Local Plan, Policy TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

### **3. Impact on Neighbouring Amenity**

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

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours in terms of their privacy, outlook, or access to natural light. The proposal is for lightweight structures that would be sited around 70m away from the nearest residential properties which are to the southeast and southwest of the site.

With regard to the objectors' concerns that the addition of the proposed structures could give rise to their use for anti-social behaviour, it should be noted that the site forms part of an area of public open space that is available for public use for various forms of sport and recreation, all of which would have varying degrees of impact with respect to noise and neighbouring amenity. The proposed structures would facilitate the use of the site for amateur football, and the impact of this use with respect to neighbouring amenity is considered to be acceptable. While it is acknowledged that the proposed structures could potentially be misused for purposes other than that which is intended, any disturbance or anti-social behaviour arising from the misuse of the proposed structures (or indeed of the public open space as a whole) would be a policing matter that would need to be raised with the relevant authorities (Devon & Cornwall Police and/or Torbay Council's Anti-Social Behaviour Team), as well as being a civil matter that would need to be raised with the operators of the site and/or the landlord. (In this regard it is noted that Torbay Council's Head of Assets & Facilities Management has indicated that, in the event that anti-social behaviour became an issue, Torbay Council who are the landlords may require the tenant to remove the said structures.) Given that there is existing legislation and reporting procedures in place that would control anti-social behaviour in the event that this issue were to arise, it is considered that this matter would not constitute a reason for refusal of the application.

The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

#### **4. Impact on Highways**

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.

While it is noted that the incremental upgrading of sports facilities can result in an increase in the intensity of use of an area of public open space which can in turn increase pressures with respect to parking and access, in this instance it is considered that the small scale and minor nature of the proposed additions would not give rise to any additional highways impact.

The proposal is considered to be in accordance with Policies TA2 and TA3 of the Local Plan.

#### **5. Impact on Ecology**

Given that the proposed structures would be sited on a grassed area adjacent to a football pitch with no impact on any trees or shrubs, it is considered that the proposal would not result in any notable ecological impact. The proposal is considered to be in accordance with Policy NC1 of the Local Plan which seeks to preserve Torbay's biodiversity.

#### **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.

The site is located within the Critical Drainage Area and the application has been accompanied by a flood risk assessment. Given the nature of the proposal, and having regard to the adopted Drainage Standing Advice, the proposal is considered to be in accordance with Policy ER1 of the Local 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**

There are no adverse economic impacts that would arise from this development and the proposal is considered to be neutral with respect to the economy.

##### **The Social Role**

The proposal would improve the public facilities for amateur football at the site thereby giving rise to social benefits in the form of recreation and the promotion of healthy and active living. Impacts on neighbour amenity have been discussed above where it is concluded that the proposal would not result in any unacceptable impact, noting that existing legislation and reporting procedures exist for dealing with any anti-social behaviour that may have the potential to arise due to the misuse of the proposed structures. On balance, the social impacts of the development weigh in favour of the development.

### **The Environmental role**

The proposal would not result in any notable ecological impact. It is noteworthy that the proposal would involve the reuse of existing structures that are already used for matches at the site (being carried into position before and after matches) and would not require any significant additional manufacturing. The proposal is considered to be neutral with respect to the environment.

### **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**

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 accords with the Development Plan aspirations to improve health and well-being and to retain and improve facilities for sports and recreation, and that the proposal would not result in any unacceptable harm.

### **Conclusions and Reasons for Decision**

It is considered that the proposal is acceptable in principle, and would not result in unacceptable harm to visual amenities, neighbouring amenities, highways, ecology, and flood risk. The proposal is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations.

### **Officer Recommendation**

That planning permission be granted, subject to the condition 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**

#### **Temporary**

In the event that the site ceases to be leased for the purposes of the playing of sport, the structures hereby approved shall have been permanently removed and the land made good (including completing any necessary landscaping works and/or planting) to the satisfaction of the Local Planning Authority within 6 months of the cessation of the said lease, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the visual amenities of this area of public open space, and in accordance with Policies DE1 and C5 of the Adopted Torbay Local Plan 2012-2030 and Policies TH8 and TE2 of the Torquay Neighbourhood Plan.

### **Relevant Policies**

*Torbay Local Plan:*

C5 – Urban Landscape Protection Areas

DE1 – Design

DE3 – Development Amenity

TA2 – Development Access

TA3 – Parking Requirements

NC1 – Biodiversity and Geodiversity

ER1 – Flood Risk

SS3 – Presumption In Favour Of Sustainable Development

*Torquay Neighbourhood Plan:*

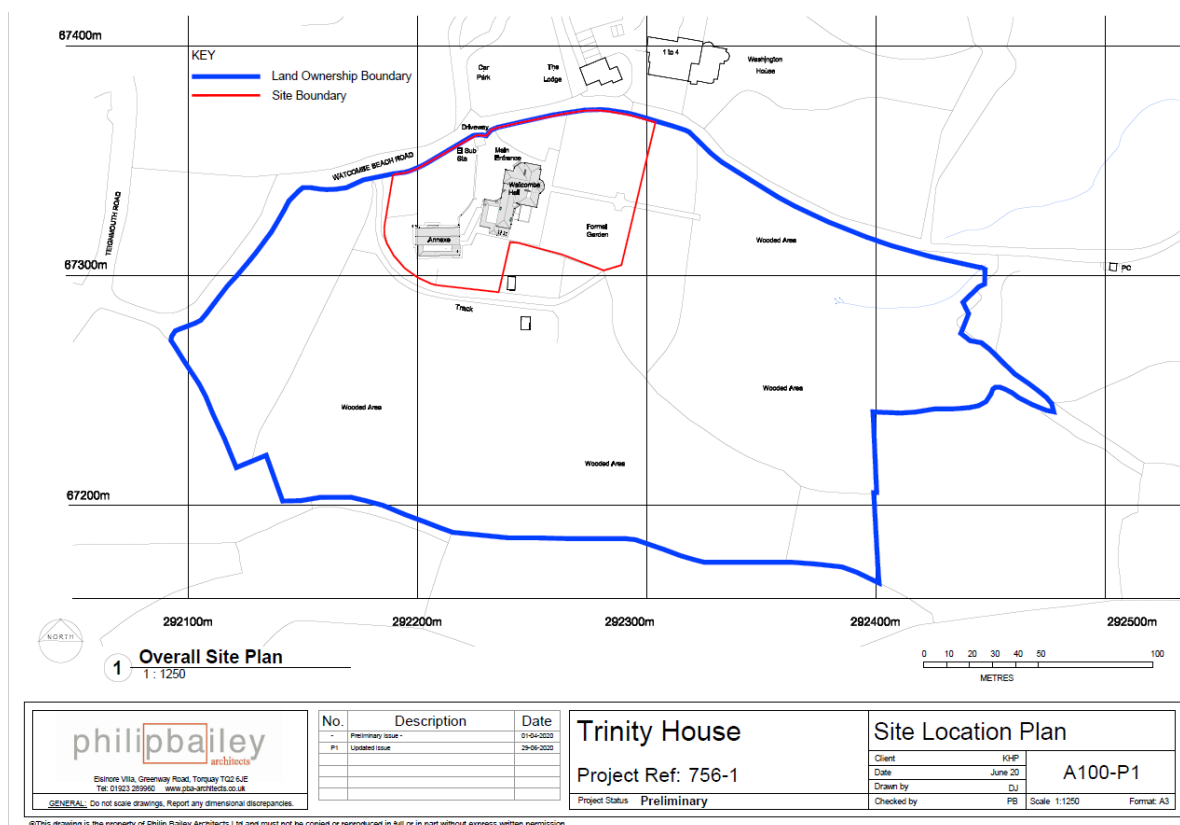
TE2 – Local Green Space

TSL3 – Sport and Leisure – Sports Grounds and Facilities

TH8 – Established Architecture

## TORBAY COUNCIL

Application Site Address	Watcombe Hall, Watcombe Beach Road, Torquay
Proposal	Conversion of existing care home into 8 flats & 4 houses with extensions, alterations & landscaping. Demolition of single storey link building & boiler house.
Application Number	P/2020/0627
Applicant	KHP (Trinity House) Ltd
Agent	Philip Bailey Architects Ltd
Date Application Valid	03.07.2020
Decision Due date	02.10.2020
Extension of Time Date	13.11.2020
Recommendation	Conditional approval
Reason for Referral to Planning Committee	Major Planning Application
Planning Case Officer	Mr Alexis Moran



### Site Details

The application site is a 19<sup>th</sup> Century villa which was last in use as a care home, the applicant's design and access statement advises that the care home use ceased in 2017.

It is located within the Watcombe Conservation Area, in which it is described as a key building, it is also within the Countryside Zone and Undeveloped Coast allocations within the Local Plan.

Vehicular access to the site is accessed via Watcombe Beach Road, which is a no through road, providing access to the site, to the beach car park and some residential properties (namely The Lodge, Watcombe Court, and Washington House).

### **Description of Development**

This planning application seeks planning permission for a change of use and refurbishment of Watcombe Hall and the annexe building within its grounds to provide 12 units of accommodation made up of 8 apartments within the main building and the conversion of the annexe into 4 houses.

The main building is to have a minor first floor extension to the southern end to increase the size of unit, the extension will be in matching materials. The elevations will have minor alterations to windows to suit the layout of the conversion.

The annexe building is to be extended to the rear at first floor level and the windows and doors will be reconfigured to suit the proposed layouts. The existing link building between the main villa building and the annexe is to be demolished.

The area around the villa will be maintained to respect the formal gardens with limited alterations to create private gardens to the ground floor units where practical.

The car parking area to the front of the villa is to be reconfigured to provide parking to the apartments. Part of the villas gardens will be subdivided to provide gardens to the ground floor apartments, the remainder would be communal garden.

The areas to the front and rear of the annexe will be sub divided to provide private gardens and a dedicated parking area will also be provided.

The parking areas include electric charging points and bin and cycle stores are also proposed for the new residential units.

### **Pre-Application Enquiry**

Not submitted, the applicant advised within the design and access statement the Council were not offering a pre-application consultation service due to Covid-19, this is however, incorrect.

### **Relevant Planning Policy Context**

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

Development Plan

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

#### 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**

None

#### **Summary of Representations**

One letter of objection to the scheme had been received at the point at which this report was written.

The concerns (of planning merit) raised are as follows:

- Impact on highways
- Overdevelopment within the conservation area
- Impact on the character of the area and wildlife

#### **Summary of Consultation Responses**

##### **Council's Heritage Advisor:**

*The proposal is a suitable development that would enable the continued use of the building and would result in improvements in the quality of the original villa building after the removal of extensions and other alterations that currently have a negative impact on the quality of the building and its contribution to the Conservation Area. However, the conversion of the annexe building requires further consideration to ensure its subdivision and appearance is suitable for its setting within the context Watcombe Park Conservation Area.*

*This conclusion has been reached in relation to section 16(2) 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 and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.*

##### **Recommendations.**

*Where alterations are proposed to external openings, works should be undertaken with particular care to ensure the historic fabric is preserved and necessary works of making-good should be carried out to match the existing original adjacent work in respect of materials used, detailed execution and finished appearance.*

## **Police Architectural Liaison Officer:**

*Having reviewed the planning application for the proposed scheme please find the following advice and recommendations from a designing out crime, fear of crime and antisocial behaviour perspective, which are submitted in addition to the SBD review and also to clarify a few matters:-*

- 1. The overall site boundary must be securely intact and where possible any structures or features that could be used to climb over the boundary should be removed*

*To ensure that the security of the site boundary is not undermined the vehicular access gate and any associated pedestrian gates should meet the required standards as referenced in Homes 2019*

- 2. One of the main concerns I have raised with the designers is the proposed parking provision of just 8 spaces for the main house and how this is likely to prove woefully insufficient, particularly when taking into account the overall number of bedrooms*

*It is appreciated that there is a public car park in close proximity but in reality it is likely that future residents will either want to see their vehicle/s or at least know they are secure. As such the limited onsite parking could lead to unplanned parking. It is strongly recommended that if at all possible some additional on-site parking is factored in to try and design out the potential for upset and angst amongst residents due to parking related problems*

- 3. It is also considered that the 8 bike racks for the 8 apartments will prove insufficient which could result in bikes being left insecure or stored so that they are not overly accessible. Also due to space constraints it is fully appreciated why the vertical cycle racks are being proposed but these can prove difficult to use for some people*

*The communal bike store must meet the security requirements highlighted in section 56 of SBD Homes 2019*

- 4. The lighting issues for the scheme have been discussed and a compromise met with regard to the bollard lighting in the parking areas in as much as they are acceptable as long as they are better positioned so the limited light they do emit is not hindered by parked vehicles*

*I have recommended that the security lights for each primary entrance, annexe and main house, will be of a type that has options for the occupants e.g. dusk till dawn, manual switch to turn on and off as required and a sensor option*

- 5. To provide ownership and control over the space it is recommended that only residents of the main house are provided access to the communal gardens.*

*As such this may have an impact on the height and type of dividing boundary between the annexe and the main house*

- 6. To improve security measures the private rear access gate for the end terrace should not be accessible from the path of the main house*
- 7. All private gates that lead to rear gardens must be capable of being locked from both sides with a fit for purpose locking mechanism as this will enable rear gardens to be secured regardless of access or egress*
- 8. I raised a query with the designers as to how the occupants of the 2 middle terraced houses would gain access to their rear gardens without having to go through the house. It is my understanding that private rear access for these plots will be factored in*
- 9. With regard to mail delivery I have been advised that the main house will have approved external wall mounted and 'through the wall' mailing systems*

**Community Safety:**

No objections subject to the inclusion of the following condition relating to a construction management plan.

**Arboricultural Officer:**

No objection

**Strategic Planning:**

*Former Victorian villas are often not best suited to meet the needs of modern care homes. In addition the location is somewhat more remote from shops and other surgeries than is ideal. On this basis the conversion into residential accommodation is supported in terms of Policy H6 of the Local Plan and TH5 of the Neighbourhood Plan. The reuse of brownfield land and contribution towards housing land supply are also factors in the application's favour.*

*The site raised a number of conservation and landscape/ecology considerations as it is a Victorian Villa located in the Watcombe Conservation Area. It is also within the countryside area and undeveloped coast. Therefore achieving a sympathetic conversion that conserves or (ideally) enhances the character and appearance of the conservation area will be important planning considerations. Policy TT2 and TH8 of the Neighbourhood Plan, and SS10 of the Local Plan are relevant with regard to conservation enhancements. Policy C1.6 and C2 of the Local Plan allow for the sensitive conversion of buildings in the countryside/ undeveloped coast, so long as the unspoilt landscape character is maintained. Policy TS4 of the Neighbourhood Plan also supports development of brownfield sites in principle.*

*The site is within CIL charging zone 3, and would be chargeable at £120 per sq m of new floorspace (on the basis that it appears to have been vacant for 3 years).*

*Subject to these detailed considerations, the proposal is supported in principle.*

**Natural England:**

No objection

**Torbay Council 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.

**Torbay Council Highways Consultant:**

Following a review of the updated fire engine swept path analysis, and a review of the Torbay Highway Design Guide Revision 7 June 2020 in relation to visibility at the access, no objection.

**Key Issues/Material Considerations**

**Planning Officer Assessment**

**Principle of development**

The matters for consideration are:

1. Principle of Development
2. Design and Visual Impact on Conservation Area
3. Impact on Amenity
4. Trees and Ecology
5. Flooding and Drainage
7. Highways Impact
7. S106
8. Other Considerations

**1. Principle of Development**

In terms of the principle of a residential use Policy H1 of the Torbay Local Plan states that proposals for new homes will be supported subject to consistency with other policies in the Local Plan. Torquay Neighbourhood Plan Policy TS4 (Support for Brownfield and Greenfield development) states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan.

Policy H6 (Housing for people in need of care) advises that proposals involving the loss of existing care accommodation will be supported where the facilities are not needed, or it does not represent the most appropriate way of delivering care. Where such a change of use is agreed, the creation of family homes or employment space will be encouraged.

Policy TH5 (Sustainable later life homes) of the Torquay Neighbourhood Plan supports care homes where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities. The site is not in a sustainable location and based on the aforementioned policies, it is considered that the conversion of the former care home to residential accommodation should be supported in this instance.



The site is within the Countryside Zone, Policy C1 advises that in the open countryside, away from existing settlements, and in rural areas surrounding the three towns of Torbay, development will be resisted where this would lead to the loss of open countryside or creation of urban sprawl, or where it would encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting. The policy allows for sensitive conversion, alteration and extension of existing buildings within these areas, the proposal is deemed to be a sensitive conversion which includes suitably sized extensions.

Policy C2 (The coastal landscape) states that development will not be permitted in the undeveloped coastal area unless proposals satisfy the following requirements:

1. Maintain the unspoilt character of the coastline, coastal landscape and seascape;
2. Maintain or improve public access for recreation; and
3. Provide sensitively designed development, including tourism uses, where there are clear economic or sustainability benefits that cannot be realised in alternative locations.

The Policy advises that within the developed areas of coast, development will be permitted where it provides benefit to Torbay's economy and does not unacceptably harm the landscape character and appearance of natural, historic or geological assets.

The proposal is for the conversion of existing buildings, with some small extensions, which would maintain the visual amenity of the area and as such is considered to be compliant with Policy C2.

With regards of other relevant matters of principle, the Council is currently falling short of its 5-year housing land supply and this proposal would make a contribution to the shortfall. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by paragraph 11 of the National Planning Policy Framework (NPPF) whereby plans and decisions should apply a presumption in favour of sustainable development. It is relevant to note that the Council can demonstrate a 3 year housing land supply which means that policies within the Torquay Neighbourhood Plan remain up to date, however there is no in-principle policy conflict within the Torquay Neighbourhood Plan in light of the aforementioned Policy TS4.

Bearing the above policies in mind, there is broad support for the provision of a residential use on the site, particularly given the current shortfall of a 5-year housing land supply, subject to wider policy considerations that are relevant to the development proposal.

## **2. Design and Visual Impact on Conservation Area**

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.

Accordingly, 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.

The site is within the Watcombe Conservation Area, Policy SS10 of the Torbay Local Plan states that developments within the conservation area should sustain and enhance its character; this is in compliance with the NPPF. Indeed Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Policy DE1 states that development should be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and buildings of historic interest.

The proposal is for the conversion of existing buildings on the site with some extensions to allow for additional accommodation. The extension to the original villa are sited so as to have limited visual impact and are considered to be of a suitable scale.

The extension to the annexe building is to the rear and would not be highly visible from outside the site. The conservation consultation points about the annexe building are noted. However its conversion to 4 dwellings is considered acceptable, the building is of sufficient scale to be converted as proposed without harming the character of the conservation area. The fenestration proposed to this building is an improvement on the current building and it would provide much needed houses towards the Council's 5 year housing supply.

Given the proposals' siting, layout, scale, and overall design, it is considered that the development would not result in any unacceptable harm to the character of the area or to the original property. Subject to the use of conditions to secure the use of high quality materials; a scheme of hard landscaping; boundary treatment details; external lighting, bicycle, and refuse storage arrangements, it is considered that the proposal is in accordance with Policies SS10, DE1, DE4, and SS11 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

### **3. Impact on Amenity**

Policy DE3 (Development Amenity) requires that all development should provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring or surrounding uses.

The closest residential properties are some 40m away, a distance that is considered to be acceptable in terms of intervisibility/overlooking and in terms of any significant noise/disturbance issues. Within the development there are no significant overlooking issues or concerns with regards to loss of future amenity.

An assessment of the existing and proposed trip generation advises that the development would have a negligible impact on the highway and it is not considered that additional vehicle movements on the site would have an unacceptable impact on the amenity of existing neighbouring occupants or future occupants of the site.

The residential dwellings comply with the internal and external amenity spaces set out in the Torbay Local Plan and the Torquay Neighbourhood Plan. The ground floor flats would have gardens and a larger communal garden area is also provided. The site is also some 350m from Watcombe Beach and other public open spaces.

A suitable level of parking is also provided with a minimum of 2 parking spaces per dwelling provided and 1 parking space per apartment with an additional 1 disabled space.

Subject to the use of conditions requiring a construction demolition management plan and conditions to implement bin and cycle storage and of parking areas, it is considered that the proposals, would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, access, privacy, or other nuisances such as noise or light-intrusion. As such, the proposals are in accordance with Policy DE3 of the Local Plan.

### **4. 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.

A small cluster of trees and shrubs are to be removed to provide the parking area and access road to the converted annexe, compensation tree and shrub planting is proposed throughout the site. The Council's arboricultural officer has confirmed that the proposal is suitable for development on arboricultural grounds. A condition requiring the tree protective fencing to be installed during construction and in accordance with the submitted Tree Protection Plan is deemed necessary.

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 submitted Preliminary Ecological Appraisal recommends mitigation measures including the use of hedgehog friendly boundaries, the creation and management of wildlife buffer zones and biodiversity enhancements.

The submitted Bat Emergence Survey advises that at least 23 common pipistrelle use the east and west aspects of the existing annexe as a day roost. Without mitigation, the proposed works have the potential to disturb, injure or kill day roosting common pipistrelle. The survey includes appropriate mitigation against this which includes the timing of the works, creation of alternative temporary roosting provision prior to commencement of works on site and new roosting provision within the finished development.

Subject to a condition to ensure the development is undertaken in accordance with the proposed mitigation and monitoring measures proposed in the submitted ecology studies, it is considered there would be no significant long-term negative effects on biodiversity within the site and the development would be compliant with Policies SS8, SS9, C4 and NC1 of the Torbay Local Plan and Policy TE5 of the Torquay Neighbourhood Plan.

### **Habitats Regulations Assessment**

The Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ) lie approximately 350m east of the site.

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. No Likely Significant Effects are considered on South Hams SAC qualifying habitats and species in view of the application's location and bat survey findings. The Council has concluded there would be no adverse effect on the integrity of Lyme Bay and Torbay SAC (and Torbay Marine Conservation Zone) as a result of the development.

### **5. 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 however it is part of the site is susceptible to surface water flooding. The applicant has advised that surface water drainage will be provided via soakaways which accords with the Council's drainage guidance. Subject to a condition stating that the drainage shall be undertaken in accordance with the submitted flood risk assessment, the proposal is deemed to comply with Policies ER1 and ER2 of the

Local Plan.

## **6. Highways 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 dwelling this states that 2 spaces per dwelling and 1 space per flat are required.

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 applicant is proposing 17 car parking spaces which is in-line with the Torbay Council standards which require 2 spaces per dwelling house and a single space per flat, with 1 disabled space. Electric charging points are also provided.

A bike shed will be located outside the apartment block for 8 covered and secure cycle storage units and each of the 4 dwellings will have garden sheds allowing storage of 2 cycles per dwelling (a total of 16 bicycle spaces).

The applicant has also undertaken an updated assessment to determine the number of trips generated by the existing site and those for the proposed use with a negligible difference between the existing and proposed trip generation. It is considered that the trip rates to be associated with the proposal are unlikely to result in unacceptable harm to the operation of the highway. The highways consultant has confirmed that the access is acceptable.

## **7. S106**

The application attracts a S106 obligation of £95 per dwelling towards the South west Coastpath/Marine SAC which amounts to £1,140 for the development.

## **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 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 manage any impact through a planning condition to reduce 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 marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition.

The site is not within close proximity to town, local or district centres, however it is within walking distance of bus routes and local areas of outdoor amenity. The proposal will include bicycle storage and the proposed development would make use of a unused, empty building on a brownfield site.

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

### **Sustainability Conclusion**

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

The proposal makes use of existing buildings and in terms of Low Carbon Development, new walls, roofs and doors provide improvements results in the development fully applying with the national standards.

### **Community Infrastructure Levy**

The residential aspect of the site is situated in Charging Zone 3 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm.

### **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 is ultimately considered a good use of a brownfield site that would provide much needed housing to help meet local need.

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

### **Officer Recommendation**

That planning permission be granted subject to 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.

### **Conditions**

1. Notwithstanding the submitted Construction Management Plan, no development shall take place until a site specific 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.

The use of a pre-commencement condition is considered appropriate in this case as environmental and highways controls, relating to the building phase of the development, need to be agreed before the construction process begins.

2. No development, other than demolition, shall take place until details of the proposed cladding materials (walls and roof) and windows of the development 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:** To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan.

3. The development shall be carried out in strict accordance with the mitigation, compensation and enhancement measures set out in section 5 of the submitted Preliminary Ecological Appraisal (ref: WOR 1331 V3 (Appraisal) received



02.07.2020) and section 5 of the Bat Emergence Survey (ref: WOR 1361-1362 v2 (bat survey) received 18.09.2020).

Reason: To ensure that the development duly considers protected species and biodiversity, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, and Policy TE5 of the Torquay Neighbourhood Plan.

4. 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.

5. The development shall be undertaken in accordance with the approved external lighting scheme (Ref: A501 P1 (External Lighting), received 02.07.2020) and shall be retained as such for the life of the development.

Reason: In the interests of amenity/biodiversity and in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030

6. Prior to the first occupation of the dwellings hereby approved, the link building extension between the annexe and the villa shall be removed in accordance with Proposed Layout Plan A22 P9 (received 13.10.2020).

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

7. All planting, seeding or turfing comprised within the approved landscaping scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species..

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

8. Prior to the first occupation of the development hereby approved, details of all proposed hard landscaping shall have been submitted to and approved in writing by the Local Planning Authority. 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.

9. No development shall take place until fences have been erected and any other protection measures put in place for the protection of trees and hedgerows to be retained in accordance with the approved Tree Protection Plan (ref:A501 P3 (TPP)), received 02.07.2020.

Reason: To protect the trees and hedgerows to be retained in the interests of the amenities of the area and biodiversity, in order to accord with saved Policies C4, NC1 and DE1 of the Torbay Local Plan 2012-2030. This is required prior to commencement to ensure no damage occurs to retained trees and hedges.

10. Prior to the first occupation of any of the residential dwellings 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. Prior to the first occupation of any of the residential dwellings 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. These details shall include hedgehog friendly fencing/boundaries. 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.

12. 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.

13. Prior to the first occupation of any of the dwellings hereby approved, bicycle and bin storage shall be provided in accordance with the approved plans. The bicycle and bin storage shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan, and Policy THW6 of the Torquay

Neighbourhood Plan.

14. 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 proposed dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

15. In accordance with 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 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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

### **Relevant Policies**

#### *Torbay Local Plan*

DE1 – Design

DE3 - Development Amenity

DE4 - Building heights

H1 – New housing on identified sites

H6 – Housing for people in need of care

ER1 – Flood Risk

ER2 – Water Management

NC1 - Protected sites - internationally important

TA2 - Development access

TA3 - Parking requirements

C1- Countryside and the rural economy

C2 – The Coastal landscape

C3 – Coastal change management

C4 - Trees, hedgerows and natural landscape

SS1 - Growth Strategy for a prosperous Torbay

SS10 – Conservation and the historic environment

SS11 – Sustainable Communities

SS12 - Housing

SS13 - Five Year Housing Land Supply

*Torquay Neighbourhood Plan*

TS4 - Support for Brownfield and Greenfield development

TH1 - Housing Allocations

TH2 - Designing out crime

TH5 - Sustainable later life homes

TH8 - Established architecture

TH9 - Parking facilities

TE5 - Protected species habitats and biodiversity

TE7 – Marine Management Planning

THW1 - Travel Plans

THW5 - Access to sustainable transport

THW6 - Cycle storage and changing facilities

TTR2 - Sustainable Communities











## **TORBAY COUNCIL**

Application Site Address	Land Rear Of 107 Teignmouth Road Torquay TQ1 4HA
Proposal	Construction of twelve flats with associated parking (Retrospective)
Application Number	P/2020/0974
Applicant	Makram Ragheb
Agent	
Date Application Valid	02.10.2020
Decision Due date	01.01.2021
Extension of Time Date	N/A
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;</p> <p>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.</p>
Reason for Referral to Planning Committee	Major Development.
Planning Case Officer	Scott Jones



## **Site Details**

The site is a previously redundant piece of land situated to the rear of 107 Teignmouth Road and 15-20 Daison Cottages, which now holds two 3-storey residential apartment blocks. The site is accessed via a short rising section of road that joins the adopted highway in front of the retail units to the north of the site. To the rear of the site a partly vegetated rock face rises sharply to woodland set on much higher land to the east.

The site has recently been subject to planning permission for 12 apartments granted consent in May 2017 under planning reference P/2016/0599. This permission has recently expired as pre-commencement conditions attached to the permission were not-discharged prior to the construction of the approved development.

The site is not covered by any designations within the Torbay Local Plan 2012-2030 or Torquay Neighbourhood Plan. However to the east of the site Daison Rock/Wood

is an 'Other Site of Wildlife Interest' and an 'Urban Landscape Protection Area'. The site is also located within Flood Zone 1 within the Critical Drainage Area as designated by the Environment Agency. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

### **Description of Development**

The proposal seeks retrospective planning permission for 12 apartments recently constructed on the site.

The development is principally unchanged from a recently consented scheme from 2017 that lapsed earlier this year. This previously approved scheme was built out with some, but not all, of the attached pre-commencement planning conditions discharged. Hence the 2017 permission that the applicant was building to is no longer valid as it has deemed to have lapsed. The application seeks to rectify the situation.

The proposal is for two apartment blocks consisting of 12 two-bed residential units. The northern block is located nearer to the entrance and sits alongside existing retail units. The southern block is located on slightly higher ground deeper within the site. Each block is three storeys and of a modern appearance with a flat roof. External wall finishes are smooth rendered walls with grey windows and doors. The two blocks are separated by a parking court that includes 13 parking spaces (1 space per unit plus 1 additional visitor space). Cycle stores and bin stores are incorporated adjacent to the car parking area, positioned fairly centrally between the two blocks of accommodation.

The land around the buildings is currently all pavements with no landscaping present. The application is supported by a proposed landscaping scheme to add planted borders, small lawn areas, landscape-framed pedestrian routes and small trees around the buildings.

### **Pre-Application Enquiry**

Informal advice that the previous planning permission granted in 2017 has expired due to pre-commencement conditions not being fully discharged. Recommend that a planning application is submitted to seek permission retrospectively to try and rectify the situation.

### **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 Torquay Neighbourhood Plan 2012-2030 (TNP)

#### **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/2016/0599 - Formation of 12 flats and associated parking (revised plans received 26.10.2016) – Approved 31.05.2017  
 P/2018/0760 - Variation of condition (P1 Plans Condition) on application P/2016/0599 (12 Flats) - Minor material amendments: Repositioning of windows and doors. Approved 13.09.2018.

### **Summary of Representations**

None.

### **Summary of Consultation Responses**

**Torquay Neighbourhood Forum:** No comments received.

**Torbay Council Strategic Transport Officer:** There is no change to the highways/transport comments from the previous application. Comments in relation to the earlier applications therefore apply as do, where still relevant, previous conditions.

**Torbay Council's Drainage Engineer:** The submitted site specific flood risk assessment, surface water drainage design and hydraulic modelling are identical to those approved for this development as part of the previous planning application. As this application is identical to the previous application and providing the surface water drainage has been constructed in accordance with the submitted documents, there is no objection on drainage grounds to planning permission being granted.

**Torbay Council's Strategic Officer:** Appreciates that this is a retrospective application to seek to resolve detailed matters arising from application P/2016/0599 and P/2018/0760) and offers that the Council would need strong reasons if it wished to diverge from the decision it previously made.

In terms of changing circumstance the Neighbourhood Plan has come into force since the original application (policy TH8 is relevant, but so are policies seeking to bring forward brownfield sites), as has the 2019 NPPF. The 2017 Planning Contributions and Affordable Housing SPD and CIL Charging Schedule have also been adopted, with CIL becoming payable for developments commenced from 1 June 2017.

**Torbay Council's Senior Tree and Landscape Officer:** No comments received. Comments received in relation to the proposed landscape scheme by 'Fine Design' that was submitted as part of the discharge of condition request associated with the now expired scheme (P/2016/0599 amended by P/2018/0760) concluded that the proposals were acceptable.

**Torbay Council's Community Safety Officer:** No objection.

**South West Water:** No objection.

### **Planning Officer Assessment**

#### **Key Issues/Material Considerations**

1. Principle of Development
2. Design and Visual Impact
3. Residential Amenity
4. Highways and Movement
5. Ecology and Trees
6. Flood Risk and Drainage

#### **1. Principle of Development**

The development is principally unchanged from the scheme for 12 apartments that was granted planning permission in 2017 under a similar policy landscape.

The site is located within an established urban area of Torquay on what was a brownfield site prior to the provision of the apartments.

Policy H1 of the Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas and elsewhere within the built environment will be supported subject to consistency with other policies within the plan. One of the specific criteria of this policy notes the objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas. Policy SDT1 of the Torbay Local Plan which relates to the Torquay Strategic Policy Area states that the urban area will be improved and renewed, with strong support for family homes. This policy landscape is supportive and is similar to that which informed the council's previous decision, which is a material consideration.

Since the previous decision the Torquay Neighbourhood Plan has become part of the Development Plan. In terms of principle Policy TS4 (Support for Brownfield and Greenfield development) offers key advice, citing that 'development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan'. The introduction of the Torquay Neighbourhood Plan to the Development Plan is not considered to change the previous conclusions that the principle is acceptable and appears to strengthen support, providing any adverse impacts aren't significant.

In terms of other relevant matters of principle 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) whereby plans and decisions should apply a presumption in favour of sustainable development. It is relevant to note that the Council can demonstrate a 3 year housing land supply which means that policies within the Torquay Neighbourhood Plan remain up to date,

however there is no in-principle policy conflict within the Torquay Neighbourhood Plan in light of Policy TS4.

Drawing together the policy landscape there remains broad support for the provision of a residential use on the site. Indeed the policy support appears strengthened due to Policy TS4 of the Torquay Neighbourhood Plan and the current shortfall of a 5-year housing land supply. This broad position is subject to wider policy considerations that are relevant to the development proposal.

## **2. Design and Visual Impact**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character and reflect the identity of its surroundings. Policy DE4 of the Local Plan requires building heights to be appropriate to the location, historic character and the setting of development.

As previously outlined the scale and form of the buildings are principally similar to that previously approved in 2017.

The scheme from 2017 was informed by comments from the Council's Urban Design Consultant at the time. These comments supported separating the proposal into two separate blocks, the scale and a modern appearance to the buildings. The current proposals are principally similar to the previously approved design in terms of scale and general form, however there are some minor aesthetic modifications to consider. The elevations have become simpler with elements of cedar cladding removed which presents a simple coloured render finish. The fenestration has also removed doors with 'Juliet' balconies to provide a simpler window arrangement. The third notable change is the apparent removal of the parapet finish which presents a fascia band around the top of the upper floors.

Within the locality there are various building designs with two storey terraces to the west and large scale flat roof commercial buildings to the north and west. The proposal is a higher scale and density than the immediate area but aligned with the proposal previously granted consent. The three storey nature of the proposal is still considered to sit comfortably in this location without undue impact on the character of the surrounding area.

The simple but contemporary form of the buildings are considered suitable in this location. The form of the building is simpler than previously approved but overall the design is a positive introduction within the locality. The separation of the two blocks, as previously approved, helps to break up the mass of the buildings and help the development to assimilate well with its surroundings.

The current setting of the building is unduly hard and there is a clear absence of landscaping. There is a landscaping scheme submitted to address the current layout in order to introduce a softer aesthetic to the development. The proposals are considered acceptable within what is a restricted plot and it is recommended that a planning condition is attached to any grant of permission to ensure the scheme is implemented in full within the current planting season. With an increase in soft landscaping and communal amenity areas for residents secured it would create a softer appearance to the site and would improve the appearance of the site in views from Teignmouth Road.

Overall, the proposal is considered to provide an acceptable form of development that has a general parity with the scheme granted consent in 2017 in terms of its design and visual impact. As a result the development is considered to be acceptable and without detriment to the character and appearance of the locality or streetscene, and is considered to comply Policies DE1 and DE4 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

### **3. Residential Amenity**

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

#### Quality of living accommodation for future occupiers

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 Neighbourhood Plan is largely silent on the matter of amenity. Policy DE3 sets out guidelines for minimum floor space standards for new dwellings and apartments, which reflect the Government's National Space Standards. Two-bed apartments should have an internal area of at least 61sqm with 2sqm of additional storage. All apartments are considered to provide an acceptable scale of living accommodation with floor areas between 70-75sqm. In addition to the size of the space the quality of the space should be considered, in terms of how it is positively influenced by natural light levels and outlooks. In this regard all apartments provide an acceptable level of both light and outlook with adequate sized windows to all key spaces and suitable outlooks. Certain east facing rooms have restricted outlooks towards the cliff face, however these are no different to the relationship previously considered acceptable by the Council when it granted consent in 2017. Policy DE3 also seeks secure the provision of usable outdoor amenity space, citing that apartments should deliver 10sqm per unit either individually or communally. The Torquay Neighbourhood Plan is in alignment with this guidance. The level of useable amenity space appears limited however the proposed layout does accord with the previously approved scheme that gained consent in 2017. It is noted that previous committee report reported that "*an area of communal garden space is provided and is consistent with the guidance attached to policy DE3*". The conclusions furthered that

*“the units are all acceptable in terms of outlook, amenity and design and are considered compliant with the relevant paragraphs of the National Planning Policy Framework which refer to creating good quality living environments and policy DE3 of the New Local Plan.”* As the policy position has not changed, i.e. the expectation of 10sqm per unit of usable amenity space sat in 2017 as it does today, the proposed level of amenity space is considered acceptable. Concluding otherwise would appear to be inconsistent in the absence of any notable policy change and somewhat unjustifiable.

Policy W1 of the Torbay 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. Two communal bin storage areas have been provided within the development which accord with the expectation of the previously approved scheme. The proposed bin storage facilities are considered acceptable and compliant with policy W1.

With matters of size, outlook, light and amenity space considered, the proposed apartments are considered to provide a good standard of living accommodation for future occupiers, in accordance with policy guidance, notably Policy DE3 of the Torbay Local Plan and Policy THW4 of the Torquay Neighbourhood Plan.

#### Neighbouring Amenity

Policy DE3 of the Local Plan states that development proposals should not unduly impact upon the amenity of neighbouring and surrounding uses.

Previously the assessment of the 2017 scheme noted that the northern block was to be separated from neighbouring residential dwellings to the west by a minimum of approximately 15m, and that the building would be at a higher level than these existing dwellings. The assessment furthered that the position presented some offset views but certain openings may allow for inter-visibility between plots. The planning permission was hence subject to a condition that the west facing windows within the three southern units within the northern block (which project closer to the adjacent dwellings) should be subject to obscure glazing and openings to be fitted with restrictors. This was in order to prevent overlooking and was considered acceptable due to the rooms affected also having north or south facing windows that wouldn't be obscured. The current proposal does not appear to have been fitted with obscure glazing and this would need to be remedied in order to ensure against undue impacts of overlooking on adjacent occupiers. It is recommended that a similar planning condition is attached to any grant of permission requiring the fitting of obscure glazing and restrictors prior to the first occupation of these units (or within a certain time period from the date of the notice should occupation already have occurred).

In regard to the southern block the distances are far greater and the west facing windows are adequately separated from neighbouring dwellings to the west in order to avoid loss of amenity through overlooking between plots.



Both buildings are sufficiently distanced in order to ensure against any undue overshadowing or loss of outlooks to neighbouring properties and occupiers. The orientation and setting of the rock face and rising ground to the east does help limit any impact in terms of potential obstruction of morning sunlight to buildings to the west.

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. Highways and movement**

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking and bicycles. 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. Torquay Neighbourhood Plan Policy TH9 states that all housing development must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

Appendix F of the Local Plan states that one parking space and one bicycle storage space should be provided per apartment. It furthers that parking for visitors should also be provided, but there is no level of provision identified.

The proposal mirrors the previously approved layout from the 2017 consented scheme with 13 parking spaces, which results in 1 parking space per unit plus 1 additional visitor space. Cycle storage is also proposed within two cycle stores conveniently located between the two buildings, which is aligned with the previously expected provision.

The parking provision was previously considered policy compliant but with a degree of concern on the level of visitor parking. It was concluded that opportunities to increase the visitor parking is likely to be at the expense of landscaping or the cycle storage. It was concluded that degrading these other elements for the benefit of parking was not acceptable to protect the outcomes in terms of urban design and occupier amenity. It was concluded that the level of parking was acceptable subject to a reasonable request for transport contributions in order to mitigate the lower level of visitor parking provision. Such contributions were to be used to improve sustainable transport links between the site and the coach station or Hele local centre. In addition a travel plan was to be requested by condition in order to ensure non-car modes of travel are duly promoted with future occupants. It was concluded that subject to these provisions, on balance, the level of parking provision on site was considered acceptable and didn't warrant the refusal of the application. The policy position has not changed and it is considered reasonable to retain the previous position, that the proposal is acceptable on balance. It is noted that £20,640 was paid to the authority for sustainable transport improvements and hence it is deemed that this obligation has

been met through the 2017 consent that has now expired. A travel plan condition would still be required and is recommended that one is attached to any grant of consent.

Away from the level of parking the access has utilised the previous access to the site. The use of this access is considered suitable for the intensified use of the site. The access is considered compliant with policy TA2 of the Torbay Local Plan.

As a final point the previous scheme secured one parking space with an electrical charging point. It is uncertain whether this has been provided and a similar level of provision should be secured through a planning condition.

Subject to the aforementioned planning conditions, the proposal is considered to comply with Policies TA2 and TA3 of the Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

## **5. 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 TE5 (Protected species habitats and biodiversity) states that the development of new homes, or a new commercial property or business premises of any class, on an unallocated site that could have an impact on a protected species or habitat must provide, as appropriate, 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. Policy C4 of the Local Plan does not permit development when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value.

The previous planning permission was subject to ecology conditions to ensure due management of the construction process and due consideration of potential enhancement measures to promote biodiversity. As the proposal is retrospective the issues of construction management have passed and are no longer relevant. The matter of biodiversity enhancement measures is still pertinent though and the application is silent on the matter. It is recommended that a time-limited condition is attached to any grant of permission to secure appropriate measures to positively incorporate biodiversity measures within the scheme. This assessment should seek, as far as practicable, to consider any features of value lost through the construction process in order to establish an appropriately robust level of measures.

Subject to the above reference condition the proposal is considered acceptable in terms of ecology and arboriculture. The proposed development is considered to be acceptable with regard to Policies NC1 and C4 of the Local Plan and Policy TE5 and of the Torquay Neighbourhood Plan.

## **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 previously consented development now lapsed was subject to a detailed surface water drainage management scheme. This scheme secured a controlled discharge to the public sewer following agreement that the site was not capable of managing the run-off using soakaways.

The current application is supported by the previously approved drainage solution and detailed design, as the scale and layout has not altered. This detail has been reviewed by the Council's drainage engineer to ensure it is robust in terms of water management for the as built scheme. It has been concluded that the previously approved drainage system that has been implemented is acceptable and ensures flood risk is not increased from the site. It is noted that South West Water do not object to planning permission being granted.

Subject to maintenance of the implemented drainage scheme the proposal is considered suitable for approval on drainage and flood risk grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

A planning condition is recommended to ensure that a sustainable surface water drainage method is maintained for the life of the development.

### **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 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 be possible to manage any impact through a planning condition to reduce 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 marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition.

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 or slightly positively 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**

The Authority received the following obligations pursuant to the now lapsed planning permission P/2016/0599 as an upfront payment to provide mitigation for the scheme.

Waste Management: £600  
Sustainable Transport: £20,640  
Lifelong Learning: £2,640  
Greenspace and Recreation: £13,440

The current proposal is considered to be principally a revised provision for this proposal as it seeks to correct it lapsing due to unsatisfied condition detail. The development is hence considered a 'replacement' and it is reasonable and proportionate to treat the 2016 permission as a material consideration (even if it was unlawfully commenced) and to consider that previous infrastructure payments have met the financial obligations of the development. It is hence considered unreasonable to seek further obligations in regard to CIL.

### **EIA/HRA**

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

### **Planning Balance**

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

### **Conclusions and Reasons for Decision**

The proposal 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 is acceptable in terms of access, ecology and flood risk matters.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations.

### **Officer Recommendation**

The recommendation is 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**

#### **Landscaping**

The proposed landscaping scheme shall be implemented and completed in full within the planting season October 2020 to March 2021.

In the event of failure of any trees/plants, planted in accordance with any approved scheme, to become established and to prosper for a period of ten years from the date of the completion of implementation of that scheme, such trees/plants shall be replaced in the next planting season and maintained in accordance with the approved maintenance plan.

The approved landscaping details shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1, SS8 and C4 of the Torbay Local Plan 2012-2030 and Policies THW4 and TH8 of the Torquay Neighbourhood Plan.

### **Ecology enhancements**

Within 3 months of the date of this notice details of measures for biodiversity mitigation and enhancement, which reflect any removal of trees or other natural features on the site during the construction phase, shall be submitted to and approved in writing by the Local Planning Authority. The measures shall propose replacement habitat features for any lost, planting schemes of benefit to biodiversity, incorporation of bird and bat box features; and the information shall also include how these features are to be maintained in favourable condition to support biodiversity. The approved measures shall be incorporated in full within 3 months of their approval and retained as such at all times thereafter.

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

### **Flood Risk Assessment**

The development shall be served by the approved surface water drainage system, which shall be continually maintained to manage surface water runoff from the development at all times 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.

### **Obscure Glazing Windows**

Within 3 months of the date of this notice the two west-facing windows within each of the three units within the southern half of the northern block (previously referred to as units 2, 4 and 6) shall be fitted with obscure glazing to the equivalent of Pilkington level 3. All window openings shall be fixed or fitted with 100mm opening restrictors where they are below 1.7m from the internal floor level of the room. The windows shall thereafter be permanently retained in that condition.

Reason: In the interests of adjoining amenity in accordance with Policy DE3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

### **External lighting**

Prior to the installation of any external lighting on the outside of the buildings or elsewhere on the site, full details including design, siting and illumination-type shall be submitted to and approved in writing by the Local Planning Authority. Only lighting that has been approved in writing by the Local Planning Authority shall be installed.

Reason: To safeguard legally protected species, including safeguarding foraging paths for legally protected bats, and in the interests of biodiversity in accordance with policies NC1 and SS8 of the Torbay Local Plan 2012-2030.

### **Parking Provision**

The parking facilities shall be permanently retained in full for the parking of vehicles in association with the occupation of the development. At all times there shall be one visitor parking space clearly demarked for the use of visitors of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 and TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

### **Electric Charging Point**

Within 6 months of the date of this notice no less than one electrical car charging point shall be located within the sites car parking court and made available for use. The 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 TH9 of the Torquay Neighbourhood Plan.

### **Bicycle Storage**

The bicycle storage facilities shall be permanently retained in full for the use of storage of bicycles incidental to the occupation of the development. At all times each store shall have independently inset secure parking fixings for 6 bicycles and shall be fully enclosed with a lockable secure door. The 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 TH9 of the Torquay Neighbourhood Plan 2012-2030.

### **Refuse Storage**

The refuse storage facilities shall be permanently retained in full for the use of temporary storage of domestic waste from the development. The approved storage arrangements shall be retained for the life of the development.

Reason: In order to provide on-site waste storage and in the interests of visual and residential amenity, in accordance with Policies DE1, DE3 and W1 of the Torbay Local Plan 2012 - 2030.

### **Travel Plan**

Within 3 months of the date of this notice a Travel Plan, to include details of review and implementation, which seeks to promote the use of non-car modes of local travel, shall be submitted to and approved in writing by the Local Planning Authority. Once approved the approved travel plan shall be implemented in full within 2 months and maintained for the life of the development.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use for future occupants in accordance with the NPPF and policies TA1 and TA2 of the Torbay Local Plan 2012-2030 and Policy THW5 of the Torquay Neighbourhood Plan.

### **Informative(s)**

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

### **Relevant Policies**

SS3 – Presumption In Favour Of Sustainable Development

SS8 – Natural environment

SS12 – Housing

SS13 – Five year housing land supply

DE1 – Design

DE3 – Development Amenity

DE4 – Building Heights

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

NC1 – Biodiversity and Geodiversity

C4 – Trees, Hedgerows and Natural Landscape Features

TA2 – Development Access

TA3 – Parking Requirements

W1 – Waste Management

TH8 – Established Architecture

TH9 – Parking Facilities

THW4 – Outside Space Provision

TE5 - Protected Species Habitats and Biodiversity