

Wednesday, 31 March 2021

PLANNING COMMITTEE

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

Monday, 12 April 2021

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 Kennedy

Councillor Dart

Councillor Barbara Lewis

Councillor Dudley

Councillor Manning

Councillor Hill

Councillor Jacqueline Thomas

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

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

PLANNING COMMITTEE AGENDA

1. Apologies for absence

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

2. Disclosure of Interests

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

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

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

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

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

3. Urgent Items

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

4. Site Of Former Conway Court Hotel, Warren Road, Torquay. TQ2 5TS P/2020/0925

(Pages 5 - 24)

Formation of 14 apartments with car parking and vehicular/pedestrian access (as revised by plans received 15.03.2021).

5. Public speaking

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

6. Site visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 7 April 2021. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

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

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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	Site Of Former Conway Court Hotel Warren Road, Torquay. TQ2 5TS
Proposal	Formation of 14 apartments with car parking and vehicular/pedestrian access (as revised by plans received 15.03.2021).
Application Number	P/2020/0925
Applicant	Dr Michel Jordan
Agent	Kay Elliott Architects
Date Application Valid	06.11.2020
Decision Due date	05.02.2021
Extension of Time Date	16.04.2021
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

Comprises a vacant site on the south side of Warren Road and set above Rock Walk. The site sits within the Belgravia Conservation Area and sits above the Grade II Entry Princess Gardens and Royal Terrace Gardens.

The site formally held a heavily extended Victorian Villa that displayed two to three storeys to Warren Road and four to five storeys to the rear.

The previous hotel use ceased around 2002 and the building sat empty until it was demolished following fire damage in 2011. The site has sat empty since this time.

In character with all plots on the southern side of this section of Warren Road there is a small flat plateau at roadside beyond which the land levels drop towards the rear boundary with Rock Walk. There are open views up to the site from the south.

Description of Development

This is a full application for the provision of a split-level building to provide 14 2-bed apartments with parking. The proposals include a vehicular access off Warren Road that will lead down to an integral parking level at lower ground floor that provides 15 parking spaces.

The building proposes 4 storeys to Warren Road and 6 storeys to the rear. This presents a general prevailing building height of around 12m to the north and 19m to the south.

The building is predominantly flat-roofed but features two large gable features that bookend the building, which run from front-to-back. These gables rise approximately 1.5m above the prevailing height of the central flat roofed section. The form of the building is modern and the materials are a mix of white render and mid-grey profiled fibre cement panels within the upper floors elevations. To the rear a natural stone plinth for the lower two floors is used. The flat roof is to be finished in a dark grey membrane and the gabled roof elements are to be finished in natural slate.

Pre-Application Enquiry

DE/2019/0004: 14 Apartments (Flat roof and pitched roof options).

In terms of basic principles the gabled scheme appeared more contextual and successful than the flat-roofed scheme. Notwithstanding that the flat-roof option seeks to take reference on some new development in the area the site in question sits firmly within an elongated street-scene of pitched roof Victorian villas. It is therefore considered more appropriate to seek a contemporary design that reflects the Villa form more directly in terms of incorporating a pitched roofscape.

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 (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/2002/1833: Demolition and erection of 13 flats: Refused 3/12/2002.

P/2004/1346: Demolition and erection of 13 flats: Refused 30/09/2004.

P/2005/1349: Demolition works Approved 5/12/2005.

P/2005/1350: Formation Of 13 Apartments With Vehicular/Pedestrian Access: Approved 6/10/2005.

P/2006/1448: Partial Demolition & Extensions To Form 14 Apartments With Vehicular/Pedestrian Access: Refused 6/10/2006.

P/2007/0089: Erection of 14 Apartments With Vehicular/Pedestrian Access: Refused 19/02/2007

P/2007/0910: Minor Modifications to P/2005/1350. Alteration and extension to create 14 flats: Approved 8/08/2007.

P/2010/0233: Demolition of hotel and formation of 14 residential apartments with parking and vehicular/pedestrian access: Withdrawn 23/09/2010.

P/2010/1080: Demolition of hotel and formation of 14 residential apartments with car parking and vehicular/ pedestrian access: Approved 10/7/2014.

Summary of Representations

25 Objections. Key issues as follows:

- Overdevelopment
- Too high
- Poor design
- Overbearing when viewed from Warren Road
- Harmful to the Conservation Area
- Parking impact
- Not sufficient detail on sustainability measures

Summary of Consultation Responses

Torquay Neighbourhood Forum:

The proposal appears to be one storey too high. The development is on a sloping site along the road and cliff frontage and therefore the use of adjacent buildings as height lines is not appropriate. It is clear the linkage between number of flats, the height and parking means the proposal overdevelops the site.

The proposal does not meet TNP policy TH9 (Parking facilities). Communities have identified lack of parking as a key issue within their areas often exacerbated by developments that have insufficient or no on-site provision causing congested on street parking, parking on pavements and destruction of community assets like grass verges and open spaces. Object for this reason.

The external appearance is not the issue and the principle is accepted.

Torbay Council's Highways Engineer:

The applicant has addressed the concerns previously raised by the Local Highway Authority regarding the access and usability of the parking.

The Local Highway Authority raises no objection to the development proposals.

Torbay Council's Drainage Engineer:

Further to the receipt of the revised surface water drainage design (MBA drawing: 19185 201 P3) it is confirmed that providing the surface water drainage is constructed in accordance with the submitted drawings and hydraulic design, there is no objection drainage grounds to planning permission being granted.

Torbay Council's Senior Tree and Landscape Officer:

There is statutory protection in terms of the Belgravia Conservation Area and Area TPO 1965.02 A2. The proposal seeks to retain the trees in the garden area and the proposal appears sustainable from an arboricultural perspective. It is recommended that conditions for the submission of a Tree Protection Plan, for an Arboricultural Method Statement (for the upgrading of the footpath where it enters the tree protection zone), and for a detailed landscape/management plan are secured.

Torbay Council's Community Safety Officer:

No objection, subject to the inclusion of a condition to secure a Construction Management Plan, which must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust

Torbay Council's Waste Client Manager:

The proposed arrangements for waste and recycling storage and collection are adequate. No objection to this development.

Historic England: The application should be considered aside the views of your specialist conservation and archaeological advisers. We do not wish to offer comment.

Police Designing out Crime Officer:

From a designing out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective the police raise no objections to the construction of 14 apartments, but are concerned over the proposed parking provision and the lack of reference to safety and security measures, which should be addressed.

South West Water: No objection.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Heritage, Design and Visual Impact
3. Residential Amenity
4. Highways and Movement
5. Ecology and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change

1. Principle of Development

In terms of context the site is a long-vacant 'brownfield' site located within an established urban area of Torquay relatively close to the town centre and the various shops, services and associated transport options. Although the site is a former hotel it does not sit within an identified 'Core' tourism area and sits in an area with a predominantly residential character, where the prevailing form of occupancy is apartments offered in large Victorian Villas or large modern apartment blocks on former Villa plots.

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

In terms of The Torquay Neighbourhood Plan Policy TS4 states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan.

In light of the broad aspirations of Policies H1 and TS4 the principle of residential use on the site is considered acceptable (in the case of TS4 subject to no significant adverse impacts), but this is subject to broader policy considerations of the Development Plan when considered as a whole and other material considerations.

In terms of relevant context it is noted that the site is well located for housing as it is in a sustainable location that has good access to shops and other services, transport links and recreational areas, within an area that already has a residential character. This context supports the principle of a residential use being acceptable.

In terms of other relevant matters of principle it is noted that the Council cannot currently demonstrate a 3 or 5 year housing land supply. For decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are considered to be out of date and therefore should be afforded limited weight within the current decision making process. The 'tilted balance' in favour of sustainable housing development therefore applies subject to the detail wording of the NPPF Para 11 and the associated footnotes.

Drawing together the policy landscape there is broad support for the provision of a residential use on the site. The policy support is clear within Policy TS4 of the Torquay Neighbourhood Plan and the current shortfall housing land supply strengthens this support. This broad position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of this assessment.

2. Heritage, Design and Visual Impact

The site is located within the Belgravia Conservation Area on land above a Grade II Entry Historic Park and Garden. It is prominent in terms of short 'street' views from the north and longer views from the south on lower ground around Torbay Road, Tor Abbey Meadows Tor Abbey Sands, where there are open views up towards the linear run of buildings within which this proposal would sit. The impact of the proposal on the heritage assets and its broader design quality is hence a key matter to consider.

Policy SS10 of the Local Plan requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance. As a former hotel site it is noted that Policy TT2 of The Neighbourhood Plan cites that within designated Conservation Areas development proposals requiring consent will be supported in principle (subject to other policies in the Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment. In addition the more generic Policy TH8 cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. This is aligned with the general design policy within The Local Plan where Policy DE1 seeks development to be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest. In addition Policy DE4 of the Local Plan requires building heights to be appropriate to the location, historic character and the setting of development.

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'.

Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context. The key components of the assessment that inform this judgment are outlined below.

The width of the proposal reintroduces gaps between it and the two buildings adjacent, which will provide some long views through to the south from Warren Road and some visual relief backwards when viewed from further afield from the south. The provision of gaps is respectful of the historic character of the street, which has actually been fundamentally weakened by the extent of sideward development in plots and the form of previous redevelopment schemes. The extent of the gaps is a betterment on the previous context where the extended Villa had entirely closed the gap with the adjacent property to the west and had a limited gap to the east.

Turning to its height although the proposed building is higher than the previous Villa it does importantly accord with the east-west stepping down of properties which follows the general fall of the land. The gable features are approximately 0.4m lower than the gable features of the building to the east and the prevailing roof height (of the central flat roof section) is approximately 1m lower than the main ridgeline of this same building. In terms of comparison with the approved scheme from 2010 (for a similarly formed building) the proposed building is 0.8m and 0.3m higher in terms of the gable heights and main roof height. Although the subtle increase in height presents a building that is higher than the 2010 approved scheme (and further from the equidistant height considering the properties either side) the impact of the change is not considered substantial, as it does still provide a step down in height.

In terms of the general form of the building the gabled features and vertical proportions of the elevational arrangement present a general form of building that duly respects

the Victorian Villa form that predominates in this part of the Conservation Area. The render, stone and natural slate provide baseline materials that respect the local vernacular and the smaller elements of fibre cement panels, bronze aluminium cladding and brise soleil present an acceptable form within the engrained modernism to the build.

When considering the proposal as a whole the scheme is considered suitably scaled, formed and detailed for the historical context in which it will sit. As such the proposal is considered substantially in accordance with design and heritage policies contained within the Development Plan and guidance contained within the NPPF. The proposal is not considered to present harm to the heritage assets.

The above conclusion has taken into account the public representations which include a notable level of concern over its height and its general design. However having assessed the design merits of the proposal there is no demonstrable reason to refuse the application on design grounds.

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

3. Residential Amenity

Policy DE3 of the Local Plan states that 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. The proposal seeks to provide 14 2-bed apartments.

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 but does cite expectations for outdoor amenity space. 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 76sqm to over 100sqm. 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 a good level of both light and outlook with adequate sized windows to all key spaces and suitable outlooks. The majority of the apartments are multi-aspect which presents naturally lit key rooms throughout. Where apartments are single aspect they are carefully

arranged to present all key rooms along the single southern aspect, which will again provide a good level of natural lighting and outlook for future occupiers.

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 scheme provides private terrace/balconies to all apartments and communal south facing gardens to the rear. This is considered to present acceptable levels of outdoor space for occupiers.

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. Communal bin storage areas have been provided within the development and there is no objection to the proposals from the Council's Waste and Recycling Officer. The proposed bin storage facilities are considered acceptable and compliant with policy W1.

Considering the various aspects that influence a good living environment the 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.

Adjacent neighbouring amenity

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

In terms of general use the provision of apartments would present a use that would align with the adjacent residential uses and hence would not introduce a form of use within the plot that would sit uncomfortably aside these properties.

In terms of the position and scale of the building there would be no undue impact upon adjacent occupiers through loss of outlook or loss of light. The principal elevations for both of the adjacent properties are the front and rear elevations and windows within the side elevations are largely absent or where present appear to be secondary windows to rooms that are unlikely to be key habitable rooms.

In terms of privacy and overlooking the adjacent buildings are within multiple use and hence the gardens of these plots are not overly sensitive in terms of the creation of casual overlooking across the plot boundaries to lower gardens. The proposal will feature terraces and balconies and these are not uncommon in the area. It is noted that Ridgeway Heights to the east features balconies and these offer unrestricted rear and sideways viewing. Due to the prevalence of casual overlooking across plots the outdoor amenity spaces are not considered to present an undue impact upon the levels of amenity afforded neighbouring occupiers. In terms of the side windows the opposing elevations to the buildings to either side are not overtly sensitive and hence would not unduly impact neighbouring amenity.

Finally in terms of the temporary impacts of the construction phase there will naturally be some short-term impacts on the locality, however such impacts are not unusual and the effects can be limited through restricting hours of construction and agreeing

processes to limit delivery and construction movement and parking impacts through the use of a planning condition. The constraints of the plot are likely to introduce some pressure upon public (highway) land during the build however this should not hinder the plots redevelopment, and due thought on the construction management should be sought to minimise any impacts.

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

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

The proposal, following the receipt of revised plans that secure an additional space, proposes a vehicular access off Warren Road with a short sweeping drive into a basement parking level that holds 15 car parking spaces and cycle storage. This provides 1:1 parking with one assigned visitor space, together with cycle parking for 28 cycles, i.e. 2 per apartment. There is one disabled parking space. The proposed parking accords with Local Plan standards as it delivers one space per apartment and parking for visitors. There is some notable local concern regarding the impact of parking however the provision is considered acceptable in light of planning policy guidance. Aside the policy guidance it is noted that the plot is relatively close to the town centre and is well located, which would present occupancy that may not necessarily be dependent on a car. Also it is noted that the provision is enhanced to that of the previous 2010 approval for 14 units, which did not deliver visitor parking (just 1:1). Finally it is also noted that the previous hotel that occupied the site did not have any demonstrable employee or visitor parking and hence would have been dependent on street parking. These material considerations all weigh in favour of the proposal in terms of parking and highway impact grounds.

In terms of detail the provision of 1 disabled space is considered commensurate considering the constraints and the policy expectation of 10% provision. There is an

expectation of 20% electric charging facilities and the application details the provision of 5 charging points (circa 36% provision). It is recommended that a condition is attached to secure the parking, electric charging points, along with the demarcation and retention of the visitor facility.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF.

5. Ecology and Trees

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy C4 seek the retention of trees and other natural features.

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

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

The application is accompanied by an ecological assessment. The ecological assessment concludes that there are no ecological constraints and poses a number of conditions to appropriately manage the ecological features present on the site and secure appropriate mitigation to deliver biodiversity enhancement. Having considered the ecological recommendations a number of planning conditions are listed at the end of this report. With consent being subject to these conditions the development is considered in accordance with ecology-based policy guidance.

In regard to trees the application is supported by a tree survey and tree constraints plan. The Council's Arboricultural Officer has reviewed the submitted detail confirmed that the proposal seeks to retain the trees in the garden area and the trees have been satisfactorily assessed. The concluding advice given is that the proposal is sustainable from an arboricultural perspective and suitable for approval with appropriate conditions attached to secure a Tree Protection Plan and an Arboricultural Method Statement (for the upgrading of the footpath where it enters the tree protection zone), together with a detailed landscape and management plan.

Having considered the submitted assessments, subject to conditions to secure enhancement features and tree protection measures as suggested, the development is considered acceptable on ecological, biodiversity and arboricultural perspective , for

the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF

6. Flood Risk and Drainage

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 application is supported by a site specific flood risk assessment (FRA) that seeks to demonstrate that the development would not increase the risk of flooding and accord with policy advice contained within the Development Plan and the Environment Agency's Critical Drainage Area Advice Note for Torbay.

The submitted FRA details that the site has insufficient space for soakaways, and steeply sloping site above cliffs would result in breakout of water from any soakaway. It is hence proposed to attenuate the surface water on site using modular storage units with a surface water discharge from the site being directed to the existing public combined sewer in 'Rock Walk' along the south west boundary of the site.

The Council's Drainage Engineer has considered the drainage proposals and following the receipt of revised detail that overcomes certain issues on detail, 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.

7. Low Carbon Development and Climate Change

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 ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The submitted Design and Access Statement includes an Energy Statement that cites that the strategic approach to the development will be to reduce demand for energy consumption in the first instance (Be Lean) prior to the consideration of integrating low carbon / zero carbon energy sources (Be Clean and Be Green).

The Energy Statement details that design measures include using low wall to floor ratios, high levels of thermal insulation (20% betterment on building regulation requirements), low fabric air permeability (50% betterment on building regulation requirements), energy efficient LED light fittings and controls, with east and west orientation to allow for passive solar gain. It is recommended that these design expectations should be secured by planning condition.

In regard to further aspirations the Energy Statement cites that there will be a strategy to consider the use of clean energy source using heat pump technologies for space

heating to maximise CO2 reduction the potential for renewable energy sources will be assessed. As these aspirations are not detailed it is considered appropriate to attach a planning condition to capture due consideration and possible implementation of these aspirations.

The development is, for the reasons above, considered suitable for approval subject to satisfactory conditions to secure the measures outlined within the application Energy Statement. The development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

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. The development would see the use of an empty site that has not been used for almost 20 years.

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.

The site has not been used for almost 20 years and the provision of housing would provide an appropriate use and offer units within a sustainable location.

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 drainage. These matters have been 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

CIL

In terms of the Community Infrastructure Levy (CIL) new chargeable floor space will be liable. For sites of 4-14 dwellings within Charging Zone 2 the rate is £70 per square metre of new gross internal floor space.

The submitted CIL form states that the development will provide 1288sqm of new floor space. On this basis the development would secure £90,160 as a CIL payment.

S106

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: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites.

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

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated 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 Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

1. Construction method statement

No development shall take place until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The 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 and measures to reduce any impact on the locality.
- 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) Measures to minimise noise nuisance to neighbours from plant and machinery.
- h) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

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. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

2. Tree Protection measures

Prior to the commencement of development a Tree Protection Plan and an Arboricultural Method Statement (AMS) for the upgrading of the footpath where it enters the tree protection zone shall be submitted to and approved in writing by the Local Planning Authority. The approved detail shall be adhered to throughout the construction phase of the development.

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

3. Ecology 1 - Nesting season

The removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged and a buffer zone of at least 5 metres must be established around the nest and an effective barrier put in place to ensure this remains undisturbed

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

4. Ecology 2 – nesting and roosting facilities

Prior to the first occupation of the development the following biodiversity enhancement measures shall be incorporated within the development. The measures shall be maintained for the lifetime of the development and in accordance with details within the approved LEMP.

- 3 linked bat tubes (Schwegler 2FR or similar to be agreed with the ecologist) fitted on an East or West facing elevation.
- Bird boxes suitable for common woodland birds will be fitted on 4 of the trees around the margins of the site.
- A swift terrace with 3 adjacent nest holes, or 3 x swift bricks placed next to each other, to be fitted on the North or East elevation of the property.

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.

5. Landscaping

Prior to the first occupation of the development a detailed landscape and management plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape plan shall accord with the recommendations outlined within the submitted Preliminary Ecological Appraisal (abbas ecology: December 2019) with planting proposals to include some salt tolerant native shrubs for the terrain and shall include an area of grassland that shall be created with a coastal meadow seed mix. The approved landscaping shall be implemented in full within the first available planting season following the first occupation of the development.

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.

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.

6. Landscape and Ecological Management Plan (LEMP)

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

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of responsibility for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

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 DE3, SS8, C4 and NC1 of the Torbay Local Plan 2012-2030 and THW4 of the Torquay Neighbourhood Plan.

7. Detailed design

Prior to their installation of all external materials within the building details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. Samples, physical or digital of all proposed material finishes, including colour code where applicable and source/type of the stone and slate,
2. Detailed drawings of all proposed windows and doors, including means of opening and section / reveal detail to a scale of between 1:1 and 1:10 and means of opening, and
3. All fencing, walls and other means of enclosures.

Reasons: In order to protect visual amenity in accordance with Policies DE1, DE3 and SS10 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

8. Drainage

Prior to the first use of the building the submitted and approved surface water drainage system shall be implemented in full and made operational. The drainage system shall then be maintained at all times thereafter to serve the development.

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

9. Parking provision

Prior to the first occupation of the development details confirming the location and provision of 5 electric car charging points shall be submitted to and approved in writing by the Local Planning Authority. The dwellings and apartments hereby approved shall not be occupied or brought into use until the parking spaces hereby approved (including the approved disabled space, visitor space and charging points approved pursuant to this condition) have been provided in full. These elements shall thereafter be retained for the approved uses for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

10. Cycle provision

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

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan 2012-2030.

11. Waste provision

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

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and W1 of

the Torbay Local Plan 2012-2030.

12. Low Carbon Development

Prior to the construction of the approved apartment building design measures that accord with the submitted Energy Statement, regarding thermal insulation that secures a 20% betterment on building regulation requirements, and low fabric air permeability that secures a 50% betterment on building regulation requirements), together with details of energy efficient LED light fittings and controls and use of heat pumps to generate low carbon heating shall be submitted to and approved in writing by the Local Planning Authority.

The submission shall include commensurate detail to conclude that the aspirations of the Energy Statement have been duly explored and measures delivered where practicable. The submission shall make it clear how low carbon design has been achieved in line with the energy hierarchy to reduce carbon emissions.

All approved measures pursuant to this condition shall be implemented within the development prior to its first use unless otherwise submitted to and approved in writing by the Local Planning Authority and retained thereafter.

Reason: In interests of tackling climate change and securing low carbon development, in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF.

13. Travel Plan

Prior to the first use of the building a Sustainable Travel Plan shall be submitted to and approved in writing by the Local Planning Authority, which shall include measures to enhance modal shift to sustainable options of travel, and measures to review and respond to targets. Once approved travel plan shall be implemented in full 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

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay

SS3 - Presumption in favour of sustainable dev

SS8 - Natural Environment
SS9 - Green Infrastructure
SS10 - Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1 - Applications for new homes
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

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