

Friday, 29 October 2021

PLANNING COMMITTEE

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

Monday, 8 November 2021

commencing at **5.30 pm**

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

Members of the Committee

Councillor Pentney (Chairman)

Councillor Brown

Councillor Kennedy

Councillor Dart

Councillor Barbara Lewis

Councillor Dudley (Vice-Chair)

Councillor Mills

Councillor Hill

Councillor Jacqueline Thomas

Together Torbay will thrive

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

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

PLANNING COMMITTEE AGENDA

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

2. **Minutes** (Pages 4 - 6)
To confirm as a correct record the Minutes of the meeting of this Committee held on

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

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

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

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

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

4. **Urgent Items**
To consider any other items that the Chairman decides are urgent.

5. **The Imperial Hotel, Parkhill Road, Torquay P/2021/0120** (Pages 7 - 54)
Renovation of existing hotel to retain (up to) 111 bedrooms.
Construction of spa, 26 residential apartments and 25 apartments from conversion of bedroom wing with associated parking, access and landscape improvements.

6. **Coach Station, Lymington Road, Torquay P/2021/0765** (Pages 55 - 78)
Demolition of existing coach station building, café and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) & E(c). Erection of public toilets, 3 new coach bays and associated public realm (description amended 10.09.2021)

7. **Land Adjacent To Roselands County Primary School, Lynmouth Avenue, Paignton TQ4 7RQ P/2021/0208** (Pages 79 - 95)
Change of use from green space to a fenced play area for use by Roselands County Primary School.
8. **Former Dairy Crest Depot, Parkfield Road, Torquay TQ1 4BH P/2020/0497** (Pages 96 - 123)
Demolition and redevelopment of former dairy depot to form 55 residential dwellings (48 apartments and 7 dwelling houses), with associated parking and landscaping.
9. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
10. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 3 November 2021. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Meeting Attendance

Whilst national Covid-19 restrictions were lifted on 19 July 2021, Torbay Council has taken the decision to continue operating in a Covid-19 secure manner in order to protect staff and visitors entering Council buildings and to help reduce the spread of Covid-19 in Torbay. This includes social distancing and other protective measures (e.g. wearing a face covering (unless exempt), signing in and using hand sanitiser). Our public meetings will continue to operate with social distancing measures in place and as such there are limited numbers that can access our meeting rooms. Also, to help prevent the spread of the virus, anyone attending meetings is asked to take Covid lateral flow test the evening before - if you have a positive test result please follow the Government's guidelines and do not attend the meeting.

If you wish to attend a public meeting please contact us to confirm arrangements for your attendance.

Minutes of the Planning Committee

11 October 2021

-: Present :-

Councillor Pentney (Chairman)

Councillors Dudley (Vice-Chair), Hill, Kennedy, Barbara Lewis, Mills, Jacqueline Thomas
and Loxton

(Also in attendance: Councillors Brooks and Chris Lewis)

70. Apologies for absence

An apology for absence was received from Councillor Dart. It was reported that in accordance with the wishes of the Independent Group, the membership of the Committee had been amended for this meeting by including Councillor Loxton instead of Councillor Brown.

71. Minutes

The Minutes of the meeting of the Committee held on 13 September 2021, were confirmed as a correct record and signed by the Chairman.

72. Devon Garden Machinery, Newton Road, Torquay TQ2 7HX P/2020/1298

The Committee considered a hybrid application comprising:

- 1) Demolition of existing buildings and construction of discount supermarket, drive through coffee shop, drive through fast food restaurant, and replacement retail building for Devon Garden Machinery with associated parking, access, and hard/soft landscaping, together with;
- 2) Outline planning application for Class B2/B8 uses (please see Teignbridge District Council application number 20/02395/MAJ for this outline element).

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were published on the Council's Website. At the meeting Dr Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum and Mr Marsden addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Chris Lewis also addressed the Committee.

Resolved:

Approved, subject to:

- 1) Confirmation that
 - a. the geometry and capacity of the access from Hamelin Way/Torbay Road;
 - b. highway improvements to pedestrian and cycle infrastructure in the immediate vicinity of the site;
 - c. a Surface Water Drainage Strategy for the Outline B2/B8 element have been demonstrated to the Assistant Director of Planning, Housing and Climate Emergency to be acceptable
- 2) The receipt of legal advice which confirms that the Kingskerswell Parish Council has been appropriately consulted about both the application within the boundaries of Teignbridge District Council and the application within the boundaries Torbay Council.
- 3) The conditions as set out in the submitted report, 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.

73. Elektron Instruments, Woodland Road, Torquay TQ2 7AY P/2021/0424

The Committee considered an application for the installation of a single industrial unit with access and parking. Demolition of existing building.

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were published on the Council's website. At the meeting Dr Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum.

Resolved:

Approved, subject to:

- 1) The following additional condition:

the use of the building hereby approved shall be limited to Use Classes, B2 and B8 and restricted E(c) and E(g) uses only;
- 2) The conditions as set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency; and
- 3) 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

74. Elektron Instruments, Woodland Road, Torquay TQ2 7AY P/2021/0425

The Committee considered an application for the installation of two industrial units with access and parking. Demolition of existing building.

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were published on the Council's website. At the meeting Dr Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum.

Resolved:

Approved, subject to:

- 1) The following additional condition:

the use of the building hereby approved shall be limited to Use Classes, B2 and B8 and restricted E(g) uses only;

- 2) The conditions as set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency; and
- 3) 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.

75. Land At Kingsland, Marldon Road, Torquay, TQ2 7JH P/2019/0710

The Committee considered an outline application for the demolition of existing structures and redevelopment to provide up to 90 dwellings, up to 1,858 sq.m gross B1 employment, open space, landscaping, associated infrastructure and access (means of access to be considered in detail) (revised plans received 11.01.21).

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were published on the Council's Website. At the meeting Mr Arscott addressed the Committee in support of the application.

Resolved:

Refused for the reasons set out in the submitted report.

Chairman/woman

TORBAY COUNCIL

Application Site Address	The Imperial Hotel, Parkhill Road, Torquay
Proposal	Renovation of existing hotel to retain (up to) 111 bedrooms. Construction of spa, 26 residential apartments and 25 apartments from conversion of bedroom wing with associated parking, access and landscape improvements.
Application Number	<u>P/2021/0120</u>
Applicant	The Bath Priory Limited
Agent	Kay Elliott Architects
Date Application Valid	04.03.2021
Decision Due date	03.06.2021
Extension of Time Date	08.11.2021
Recommendation	Delegate authority to the Divisional Director - Planning, Housing & Climate Emergency to grant conditional approval subject to the conditions detailed below and the completion of a Section 106 legal agreement. Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director - Planning, Housing & Climate Emergency
Reason for Referral to Planning Committee	Major Application
Planning Case Officer	Jim Blackwell

Location Plan



Site Details

The site is located approximately 300m to the south-east of Torquay Harbour. It occupies a prominent position on the coastline with the range of buildings visible around the Bay. The hotel is accessed from Parkhill Road, with a driveway that continues into the South West Coast Path (SWCP) as it passes the site to the east. To the north-east of the driveway is the hotel car park with a small, covered section and a triangular shaped, surface parking area arranged around a prominent mature oak tree.

Parkhill Road continues to rise to the east past the car park. The approach road slopes down to a forecourt at the hotel entrance. The southern areas of the site are landscaped, with terraces following the falling topography to the east and landscaped gardens to the south and west. The site boundary is separated from the immediate coastline by Council owned land where access can be gained by pathways down to a landing platform. The Prince of Wales Steps provide access to the water through a narrow inlet between the low lying cliffs at the foot of the site.

The main hotel building is nine storeys at its highest from the southern side with seven storeys facing within the site. Imperial Court lies further to the west and is seven storeys at its highest. It appears lower down and smaller in scale than the hotel due to its design and topography. Separating the buildings is a wedge-shaped two-storey building housing the hotel's main event space, known as the Torbay Suite, spa and leisure facilities. The upper floors of the main hotel block can be read as three distinct built elements when viewed from the sea, with horizontal balconies fronting all sea-facing guestrooms. The lower levels project out beyond the line of guestrooms above, with the glazed frontages of the restaurant and lounge spaces. A disused staff accommodation block sits adjacent to Parkhill Road, with a pair of tennis courts close to the spa and leisure building. The staff building also houses a substation, squash court and storage areas.

The site is located within:

- Torquay Harbour Conservation Area (THCA).
- Flanked to the north and east by the Lincombes Conservation Area (LCA).
- The designated 'Town Centre' under the Torbay Local Plan 2012-2030.
- Flood Zone 1.
- CIL Zone 2.
- Listed building grade II.
- 250m of Dyers Quarry SSSI.
- Coastal Change Management Area.

Description of Development

It is proposed to redevelop the entire site using residential development to enable the level of regeneration that is required to recreate a modern, high quality 4 star hotel. It is proposed to:

- Refurbish the exterior and interior of the hotel.
- Reorganise the hotel rooms reducing the number from 152 to (up to) 111.
- Redevelop the former staff quarters, tennis courts, conference suites and the west wing as follows:

- Building A (new build) – 4 storey new build containing 8 open market apartments and 8 open market maisonettes.
 - Building B (new build) – 3 storeys of new build one storey higher than the former conference suites to create 10 open market maisonettes.
 - Building D (conversion of West Wing) – 9 floors of conversions to create 25 open market apartments.
- The creation of 51 new dwellings with decked amenity spaces, private balconies and private parking on a one for one basis.
 - A new beach club and spa complex to the south of the hotel.
 - Reorganised reception and arrival area including relocating the service area under an entrance landscaped deck to Building D and splitting hotel service access from hotel customer access.
 - A new public footway on the west side of the road leading to the hotel reception and a new public footway along the north side of the main hotel car park and the south side of Parkhill Road to improve public highway safety.
 - Improved car park layout and access to and from reception.

Amendments to the original application include:

- Site location plan.
- Site layout plan.
- The footway connection on Parkhill Road, to the east of the site.

A range of additional information has been provided:

- Viability assessment.
- Tracking drawings showing access for fire vehicles and coaches.
- Submit a swept path analysis to illustrate a fire tender accessing and egressing Block D/the main forecourt of the Hotel.
- A plan showing how coaches will be guided when manoeuvring within the site car park.
- Details relating to how the demarcation between private and adopted highway will be Implemented.

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 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:

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. With regard to Conservation areas the Act requires that in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Signed Planning Performance Agreement

A Planning Performance Agreement (PPA) was signed on 10th March 2020 between Torbay Council, the agent and applicant. A range of key matters were addressed during this process around community and stakeholder consultation, member engagement and the use of themes relating to each core area set out below in the Material Considerations section. Early workshops with theme leads enabled this proposal to be led to this formal application stage using a collaborative approach.

Statement of Community Involvement

The application is supported by a Statement of Community Involvement. This sets out the clear sequence of engagement with the community and well as critical organisations such as Historic England and Design Review Panel. Engagement with Members, officers, consultation letters to adjacent residents, a public exhibition, social media and the local press were all utilised to gain feedback. The on-line exhibition attracted 7141 unique visitors between 10th November and 5th December. Of the 170 respondents to the on-line feedback forms 83% of respondents were supportive of the proposals. This process demonstrates the value in early engagement which saw the scheme evolve as a result.

Relevant Planning History

- External alterations including new glazed corridor and fire escape Ref. No: P/2014/1183: Approved.
- Removal of balconies on part of South West and South East elevations to be replaced with windows and making good elevations Ref. No: P/2012/1238: Refused – appeal split decision.
- External alterations including new glazed corridor and fire escape. Ref. No: P/2009/1051: Approved.

Summary of Representations

2 representations in support and approximately 53 objections to the scheme had been received at the time this report was drafted.

The reasons for support are summarised as follows:

- Positive impact on local area.

- Highway improvements.
- Housing provision.
- Removes unsympathetic buildings and features.
- Improves tourist facilities better.
- Employment provision and retention.

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

- Impact on local area.
- Noise.
- Not in keeping with local area.
- Over development.
- Traffic and access.
- Loss of light.
- Over development.
- Privacy / overlooking.
- Impact on trees and wildlife.

Torbay Heritage Trust has also submitted approximately 30 comments and objections broadly covering the themes below:

- Road and pedestrian safety.
- Impact on marine ecology.
- Building heights.
- Impact on climate change and a lack of appropriate landscaping.
- Design Review Panel minutes and commentary.
- Disagreement with Historic England comments.
- Questions around the design approach.
- The built hierarchy between old and new.
- Impact of the new build development on the Conservation Area.
- Impact on coastal landscape.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

We believe that the scheme will enhance the tourist offer within the Bay whilst contributing 51 dwellings to the available housing stock. We support the scheme, however we have two reservations which we would respectively request that the Planner considers prior to making his recommendation.

1) We are pleased to see the proposal to provide a footpath within the site, behind the boundary wall alongside Parkhill Road. However, the site does not cover the upper 20m section of Parkhill Road leading to its junction with Rock End Road. The Traffic Consultant employed by the Developer has made a proposal to Council Highways Department to introduce a give way, single carriageway here so that a safe footpath and cycle path can be established over this section of Parkhill Road which currently has no provision.

This section of road is considered to be extremely dangerous for pedestrians and its rectification formed part of the aspirations of the Wellswood Community Partnership within the Torquay Neighbourhood Plan. This development, in conjunction with support from the Council Highways Department, can provide a solution to this long term safety problem.

2) We note that the Developer is proposing to utilise the road which runs in front of Imperial Court for vehicles servicing the Hotel. We cannot comment upon legal matters relating to ownership or Rights of Way, however we would request that a compromise is sought between the Developer and the residents of Imperial Court to minimise disturbance and disruption.

Subject to suitable clarification and resolution of the above the proposed development has the support of the Torquay Neighbourhood Forum.

County Archaeologist and Historic Environment Manager:

No objection but recommends a limited programme of historic building recording.

The proposal will not impact on any currently known sites of archaeological interest. The potential for as yet undiscovered archaeology within the site is unknown, but likely to be low due to modern era building and terracing.

However, the Imperial Hotel is in origin a significant structure associated with Torbay's Victorian and tourism heritage. It warrants inclusion as a heritage asset on the Devon and Torbay Historic Environment Record (HER). I would therefore recommend that a historic building report should be deposited with the HER and with OASIS, the public facing repository managed by the Archaeological Data Service.

In my opinion an appropriate report could be based on an edited and redacted version of the submitted Heritage Statement, supplemented by a selection of additional historic plans and photographs that may be available to the applicant. This report could be secured by agreement with the applicant or by condition. I will be happy to advise on appropriate wording for a condition, should that be required.

TDA - Senior Economic Development Officer

Supports the proposed development and renovation of the Imperial Hotel, Torquay.

The proposal aligns with the aims and objectives of the English Riviera Destination Management Plan, specially investing in the quality of hotel accommodation and supporting the year round offer to attract new visitors (domestic and international). The product development will also provide skills opportunities further developing the career aspirations in the tourism and hospitality sector.

Natural England:

No objection subject to the appropriate mitigation being secured.

We consider that without appropriate mitigation the application would:

- Have an adverse effect on the integrity of the Lyme Bay and Torbay Special Area of Conservation (SAC) and may hinder the conservation objectives of the Torbay Marine Conservation Zone (MCZ).

We concur with the conclusions of the Appropriate Assessment and MCZ Assessment that in order to mitigate these adverse effects and make the development acceptable, the following mitigation mechanisms should be secured via an appropriate planning obligation and/or conditions:

- All mitigation measures within the Appropriate Assessment and MCZ Assessment are appropriately secured in any planning permission.

Torbay Council's Engineering Service Manager:

1. The developer has identified that infiltration drainage will not be feasible at this development and is therefore proposing to discharge surface water run-off from the site directly to coastal waters. Providing all licenses are secured for the disposal of surface water to the Bay the proposal complies with the requirements of the Torbay Critical Drainage Area.
2. The developer must take measures to ensure that during and post demolition/construction there is no risk of pollution to any surface water drainage system on or adjacent to the site which could result in pollution to the Lyme Bay and Torbay Marine Special Area of Conservation.
3. The developer is proposing to discharge surface water run-off from the site directly to coastal waters via a new borehole/directional drilled outfall. Although there are details of the ground conditions likely to be encountered as identified from a desk top study, prior to construction works commencing on site detailed geotechnical investigations must be undertaken in order to assess the effects of the borehole/directional drill on the stability of the cliff. I would be happy for a planning condition to be used to cover this requirement.
4. Within the drainage strategy report there is a hydraulic design for the proposed surface water drainage system discharging to coastal waters via the borehole/directional drill. The surface water drainage system has been designed in order that there is no risk of flooding to buildings on the site and there is no increased risk of flooding to land or buildings off the site for the critical 1 in 100-year storm event plus 40% for climate change.
5. A drawing showing the proposed surface water drainage for the development showing the pipe numbering system used in the hydraulic design, proposed manhole cover levels, invert levels, pipe gradients and impermeable areas discharging to each pipe length has been included within the drainage strategy.

Based on the above comments I can confirm that I have no objections on drainage grounds to planning permission being granted for this development providing a condition is used with regards to the stability of the cliff as identified in item 3 above.

Further clarity has been provided on the issue of coastal erosion:

As the proposed development at the Imperial hotel is not extending beyond the existing building line towards the cliffs, I do not see an issue with regards to increased risk from coastal erosion to that which currently exists. The policy for this area of coastline within the existing SMP is no active intervention for the three epochs (0-20 years, 20-50 years and 50-100 years). The SMP is currently being reviewed and a refresh will be issued in the next year or so however there is no intention to revisit the policy for this area under the refresh programme.

As previously highlighted within my drainage response, any works that are being undertaken in constructing the proposed surface water outfall will have to demonstrate that the works will not impact on the stability of the coastal cliffs. This requirement would be the same for any proposed works in advance of the existing building line.

The estimated rate of coastal erosion is identified within the SMP documents together with the National Coastal Erosion Risk Mapping (please note these are currently being reviewed by the EA). As no active intervention will take place the risk of coastal erosion at this location will remain.

South West Water:

Having read the comments of the LLFA engineer and the proposals contained in the drainage report, I would advise that South West Water has no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy.

Environment Agency:

No objection.

Police Designing Out Crime Officer:

No objection subject to a suggested condition:

A scheme detailing safety and security measures and how designing out crime and crime prevention per se has been considered for the scheme and where implemented shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include the following:

Details of the physical security measures for both residential and hotel premises, detail of the external lighting plan and monitored CCTV system and confirmation that a clear passport to compliance document is in place.

Reason: - To ensure the safety and security of persons and property and minimise opportunity for crime, fear of crime and disorder.

The above submitted in accordance with the following Designing out Crime local and national planning policies: - Torbay Local Plan Policies DE1 and SS11

Torbay Council's Highways Engineer:

2.0 ACCESSIBILITY

2.1. The site is located to the south-east of Torquay Harbour with primary vehicular and pedestrian access taken from Parkhill Road. There is a bus stop located on Parkhill Road, approximately 250m from the Hotel, which is served by the Torbay Buses 64 route which runs an hourly service between Castle Circus and Middle Warberry Road.

2.2. Torquay Rail Station is located approximately 2.1km west of the site. The station is operated by Great Western Railway and operates services to Paignton and Exmouth in 30-minute frequencies. There are footways and street lighting present for the duration of the pedestrian movement between the rail station and the site.

2.3. It can be concluded that the proposed re-development site is located within a sustainable location.

3.0 PERSONAL INJURY COLLISION DATA

3.1. The applicant has obtained collision data for the latest available five-year period, which has identified zero collisions within the vicinity of the site.

4.0 HOTEL ACCESS

4.1. It is proposed to retain the existing access to the Hotel from Parkhill Road which comprises of a 7.3m wide carriageway with a 1.6m footway running along its eastern edge. It is proposed that a 1.8m footway will be installed on the western edge of the carriageway to facilitate improvements for pedestrian movement.

4.2. It is noted that the visibility splays submitted by the applicant do not meet the required visibility standard to the east, which is constrained by a wall fronting onto Parkhill Road. This reduces the required visibility from 48m to 25m. However, it is noted that there have been no personal injury collisions on Parkhill Road during the latest available five-year period that data is available for. Additionally, due to the re-development proposals, this access will experience a reduction in the number of service vehicles due to the creation of a new service access. This is considered acceptable.

4.3. A new service access is proposed to the west of the Hotel via the Imperial Court site, from which the Hotel benefits from rights of access. The applicant has submitted visibility splays that show splays of an 'X' distance of 2.4m and a 'Y' distance of 43m can be achieved in both directions.

5.0 RESIDENTIAL ACCESS

5.1. The car park for Block A will be achieved via a new vehicular access onto Parkhill Road into the proposed car park. The visibility splays submitted by the applicant show that a splay of 2.4m x 41m is achievable to the nearside kerb to the east of the access with a splay of 2.4m x 33m to the west. Whilst these splays are below the required standard, it is noted that there have been no collisions recorded within the latest available five-year period on Parkhill Road. This is considered acceptable.

5.2. Residential blocks B and D will access through the main hotel site access road and onto a new access to the west of this.

5.3. The applicant has provided a swept path analysis to illustrate a car accessing, parking and egressing the car parks for Blocks A, B and D. The applicant has not provided a swept path analysis to illustrate that an emergency service vehicle can access the proposed car parks.

6.0 PARKING

6.1. The re-development proposals will result in a reduction of car parking spaces for the Hotel to 115, which results in a ratio of 1.04 spaces per bedroom. The Torbay Local Plan (2012 – 2030) Parking Standards, contained within Appendix F, state that 1 car parking space should be provided per bedroom of which the applicant has met. The standards also state that there should be appropriate provision provided for coach parking / pick up and drop off of coach passengers. A review of the site plan identifies that passengers can be picked up / dropped off outside the hotel building, however, there does not appear to be provision for coach parking. If capacity for on-site coach parking is unavailable, proposals should be included for arrangements for coach pick-up/set-down, along with off-site parking availability.

6.2. It is proposed to provide 12 cycle parking spaces for staff at the Hotel, as well as a further 10 cycle parking spaces for staff. It is noted that the cycle storage will be covered and secure.

6.3. Car parking will be provided on the basis of one space per apartment, as is in accordance with the Torbay Parking Standards. It is noted that 20% of the car parking bays will be provided with electric charging points. Secure cycle parking will also be provided on the basis of one space per apartment. It is noted that, whilst no visitor car parking is proposed, there is public car parking available in the Shedden Hill Car Park.

7.0 REFUSE STRATEGY

7.1. It is proposed that the hotel and residential development will be serviced on-site via the construction of a new service access. The applicant has provided a swept path analysis for a refuse vehicle to show it accessing the site, manoeuvring and egressing the site in a forward gear.

8.0 TRIP GENERATION

8.1. The applicant has undertaken a TRICS trip generation analysis to determine the existing and proposed trip generation associated with the re-development proposals. This has determined that there will be an increase of two vehicles trips in the AM peak and one vehicle trip in the PM peak using the main site access (utilised by the hotel and 35 of the apartments).

8.2. The Block A residential apartment will be served by a new access onto Parkhill Road, which will result in a two-way movement of 5 vehicles in the AM and PM peaks respectively.

8.3. Due to the minor increase in trip generation using the main site access, as well as the small number of movements utilising the new access from Parkhill Road, it is determined that the trip generation is acceptable and will not have a material impact on the safety or operation of the local highway network.

9.0 OFFSITE HIGHWAY WORKS

9.1. It is proposed to introduce a publicly accessible path to the east of the main Hotel access junction, running east along the southern side of Parkhill Road. This path would form a continuation of the existing footway to the east of the junction. The path would be provided behind the existing boundary wall, extending approximately 40m to the east to a historic gateway to the Hotel site. Pedestrians will then pass through the gateway back onto Parkhill Road. The scheme would then provide a 3.2m carriageway, with 0.5m wide kerbs buffer on the northern side of Parkhill Road with the remaining width (approximately 2m) provided for a footway along the southern edge.

9.2. The scheme has been subject to a Stage 1 Road Safety Audit.

10.0 TRAVEL PLAN

10.1. The applicant has submitted an interim Travel Plan targeted for the employees of the Hotel which aims to set out sustainable access opportunities for the site and to identify measures to achieve a modal shift away from single occupancy car use. It is noted that a Full Travel Plan will be prepared by the operator of the Hotel, which will include details relating to baseline surveys, agreed targets and contact details for the Travel Plan Co-ordinator.

10.2. The full Travel Plan will be required to be submitted to and approved by Torbay Council 6 months after the completion of the re-development.

11.0 CONCLUSION

11.1. Prior to a recommendation being made by the Highway Authority, the applicant will be required to submit the following information:

- Provide a swept path analysis of an emergency service vehicle safely accessing / egressing all areas of the site layout; and
- Amend the Hotel car parking layout to provide for coach parking. If capacity for on-site coach parking is unavailable, proposals should be included for arrangements for coach pick-up/set down, along with off-site parking availability.

Following further details, the following comments were received:

Based upon the information submitted by the applicant, the Highway Authority offers no objection to the proposed re-development subject to the condition that the future management of the hotel, prior to occupation, provides information relating to how coaches will be safely manoeuvred on-site to egress the hotel forecourt in a forward gear and prevent conflict with other vehicles, buildings, pedestrians and cyclists. It is also subject to condition that the legal agreement between the applicant/Hotel and Torbay Council regarding the gate post sitting within the highway must be completed before the works to the access commence.

Torbay Council Community Safety Team:

I have some concerns about the need for SWISCo to drive onto unadopted highway to collect from these properties, although I do appreciate that the plans include some improvements to access on the site, removing the need to reverse in the collection vehicles. Would it be a possibility for an indemnity to be sought?

I would like to request a waste management plan for this development as a communal waste and recycling arrangement will be used as opposed to the bin and box system which is standard across Torbay, which is generally does not achieve the same levels of recycling that the standard box system does. The plan should detail how the waste and recycling will be managed within the residential apartments and allow for a decision to be made about which level of contributions can be sought.

Senior Tree and Landscape Officer:

Statutory protection

- Torquay Harbour Conservation Area
- 2010.030 G1 TPO, 1978.03 T1

Referenced documents

- BD 0253 SD 401 R01 Landscape Statement
- 05399 TPP (1, 2 and 3) Tree reports
- 05399 AIA Arboricultural development assessment report
- BD 0253 SD 806 R00 Soft Landscape

Arboriculture Appraisal

- The proposed tree removals are all Category C specimens, that is, trees of low arboricultural merit or shrub beds. Some of the removals are roadside vegetation. The others offer internal aesthetic landscape planting.
- T7 Lucombe oak is to have a section of its RPA removed to accommodate the realignment of the internal car parking area with the potential for short term impact on the physiological health of the tree.
- An AMS is advised within the report for the works around T7
- The retained trees are shown to be protected by tree protection measures as per BS5837 latest edition.

Landscape Appraisal

- The landscape statement provides broad objectives for the various sections identified with the plans with an overall ethos of maintaining or enhancing the local surroundings and character of the Conservation Area.
- The proposed soft landscaping provides, primarily, trees and shrubs that will benefit the internal aesthetics of the site.
- Scots pine are mentioned as one of the specimen planting. This although a native tree is not widely planted with the area with either Corsican or Black pine dominating the pine species spread locally.

Conclusion

- The proposals are broadly welcomed and seek to establish tree retention and mitigate tree/shrub loss with new planting.
- Concerns are raised over the impact of T7 to realign the internal road/car parking and if further soil/grass will need to be removed to accommodate a working area during construction.
- The landscape proposals fail to deliver on potentially large trees in the landscape with a focus on the internal and immediate landscape.
- Scots Pine is not widely known in Torbay with the pine population locally tends towards Corsican or the Austrian pine

Recommendation

- A detailed AMS to show the impact on T7 will not be detrimental to the tree in the long term (this will require pre-development exploration of the area to establish volume of root that will be lost to the proposed realignment).
- The use of specimen trees at strategic locations in the site to provide large trees in the long term with an impact in the wider landscape.
- Consideration to the use of other Pines (although it is understood that Scots pine is a native tree).

- Compliance condition for the TPPs as stated above.

Devon and Somerset Fire and Rescue Service:

This proposal must comply with Approved Document B of the Building regulations, to include access requirements for the Fire Service vehicles (B5). These include Vehicle Access, including minimum road widths, turning facilities for fire service vehicles and a maximum reversing distance of 20 metres.

In addition, please confirm provision of appropriate water supplies for firefighting (street hydrants) including appropriate flow rates. Information on this should be sourced from National guidance document on the provision of water for firefighting (3rd edition; Jan 2007)

Torbay and South Devon NHS Foundation Trust

Torbay and South Devon NHS Foundation Trust has reviewed the above planning application and carefully considered the impacts that it will have on how Acute and Community healthcare services can be provided for within the local area.

The Trust acknowledges that the creation and maintenance of healthy communities is a significant material consideration and that all planning applications must be determined in accordance with the development plan (unless material considerations indicate otherwise), and that both the creation and maintenance of healthy communities is an essential component of sustainability as articulated in the Government’s National Planning Policy Framework (NPPF)

In addition, we understand that Council’s development plans are required to conform with the NPPF and that less weight is given to policies that are not consistent with the NPPF. Consequently, local planning policies along with development management decisions also have to be formulated with a view to securing sustainable healthy communities. A fundamental part of a sustainable healthy community is access to health services and we hope that as a local partner you will be supportive in ensuring that the local population has access to appropriate and timely healthcare provision. Whilst preparing this response, it is noted that the Torbay Local Plan 2012-2030 and associated policies states that:

Policy SS11 Sustainable communities

Development will be assessed against its contribution to improving the sustainability of existing and new communities within Torbay...

Development proposals will be assessed according to whether they achieve the following criteria, insofar as they are relevant and proportionate to the development:

- 1. Meet the needs of residents and enhance their quality of life;*

...

- 4. Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities;*

...

Policy SC1 Healthy Bay

All development should contribute to improving the health and well-being of the community, reducing health inequalities and helping to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal.

To achieve these requirements, applicants should demonstrate that they have had regard to the following:

1. *Consideration of the opportunities available to address the cause of ill-health in the local area;*
2. *Promotion of healthy, safe and active living for all age groups, including healthy living, options for older people; and*
3. *Improvement of access to medical treatment services, including the provision of healthcare clusters where appropriate,*

Major residential developments of 30 or more dwellings or other development creating over 1,000 square metres of floorspace will be required to undertake a screening for Health Impact Assessment (HIA), and a full HIA if necessary, proportionate to the development proposed, to demonstrate how they maximise positive impacts on health and healthy living within the development and in adjoining areas. This will also apply to smaller-scale developments where there are reasons to indicate that a proposal may give rise to a significant impact on health”

The appendices to this request demonstrate that Torbay and South Devon NHS Foundation Trust (TSDFT) is currently operating at full capacity in the provision of acute, community and planned healthcare. The proposed development will create a potentially long-term impact on TSDFT's ability to provide its services in a safe, accessible and sustainable manner to current and new residents.

TSDFT's funding is based on the previous year's activity that it has delivered, subject to satisfying the quality requirements set down in the NHS Standard Contract. Quality requirements are linked to the on-time delivery of care and intervention and are evidenced by best clinical practice to ensure optimal outcomes for patients.

Our NHS contract is agreed annually based on the previous year's activity plus any pre-agreed additional activity for clinical services. The Trust nor its Commissioners are able to take into consideration the Council's housing land supply, potential new developments and housing trajectories when the annual contracts and funding arrangements are negotiated. The funding is not able to be changed even if the health care providers or commissioners have knowledge of new housing development through the consultation process, during the local plan process or otherwise.

Further, the following year's contract does not retrospectively pay the previous year's deficit. Therefore, new developments, whether they are allocated or windfall sites create an impact on TSDFT's ability to provide the services required due to the funding gap that is created and the contribution sought is to mitigate this direct impact.

In requesting this contribution to mitigate the impact we have considered and ensured that it is compliant with the CIL Regulation 122 and Appendix G has been provided in order to assist the Local Planning Authority.

Section 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request that a developer contributes towards the impact a development creates on services. The contribution of £50,519 sought will go towards the gap in the

funding created by each potential patient from this development. The detailed explanation and calculations are provided within the appendices.

Without the requested contribution TSDFT will still provide healthcare to all the new residents of the development however its ability to support health and wellbeing for everyone, provide quality of health services for all, and ensure sustainable use of NHS resources will be compromised. In particular the increased healthcare activity from this development without the required resources will lead to longer waiting times for all patients. TSDFT would appreciate acknowledgement of the request for an S106 contribution relating to this development and confirmation that it will form part of the S106 agreement with the developers.

NHS Devon Clinical Commissioning Group (CCG)

The application has been reviewed from a primary care perspective and the following comments are provided by NHS Devon Clinical Commissioning Group as their response to the application. The response has been informed by the Devon Health Contributions Approach: GP Provision (<https://www.devon.gov.uk/planning/planning-policies/other-county-policy-and-guidance>) which was jointly prepared by NHS England and Devon County Council.

In preparing this response, it is noted that Torbay Borough Council Local Plan 2011 to 2031 (adopted 29th October 2018.) states that:

“Policy SS11 Sustainable communities

Development will be assessed against its contribution to improving the sustainability of existing and new communities within Torbay....

Development proposals will be assessed according to whether they achieve the following criteria, insofar as they are relevant and proportionate to the development:

1. Meet the needs of residents and enhance their quality of life;

...

4. Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities;

...

Policy SC1 Healthy Bay

All development should contribute to improving the health and well-being of the community, reducing health inequalities and helping to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal.

To achieve these requirements, applicants should demonstrate that they have had regard to the following:

- 1. Consideration of the opportunities available to address the cause of ill-health in the local area;*
- 2. Promotion of healthy, safe and active living for all age groups, including healthy living, options for older people; and*
- 3. Improvement of access to medical treatment services, including the provision of healthcare clusters where appropriate”*

The CCG's concern is that the combined surgeries of Parkhill Surgery (Pembroke Medical Group), Southover Medical Practice and Croft Hall Surgery are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require review. The combined surgeries already have 43,621 patients registered between them and this new development will increase the local population by a further 111 persons.

Taking this into account and drawing upon the document "*Devon Health Contributions Approach: GP Provision document*" which was agreed by NHS England and Devon County Council, the following calculation has been made:

Methodology for Application P/2021/0120

1. Residential development of 51 dwellings
2. This development is in the catchment of Parkhill Surgery (Pembroke Medical Group), Southover Medical Practice and Croft Hall Surgery which have a total capacity for 41,720 patients.
3. The current patient list size is 43,621 which is already over capacity by 1902 patients or at 105% of capacity.
4. The increased population from this development = 111
 - a. No of dwellings x Average occupancy rate = population increase
 - b. $51 \times 2.17 = 111$
5. The new GP List size will be 43,732 which is over capacity by 2013
 - a. Current GP patient list + Population increase = Expected patient list size
 - b. $43,621 + 111 = 43,732$ (111 over capacity)
 - c. *If expected patient list size is within the existing capacity, a contribution is not required, otherwise continue to step 6*
6. Additional space required = 8.08 m²
 - a. The expected m² per patient, for this size practice = 0.073m²
 - b. Population increase x space requirement per patient = total space (m²) required
 - c. $111 \times 0.073 = 8.08 \text{ m}^2$
7. Total contribution required = £25,853
 - a. Total space (m²) required x premises cost = final contribution calculation
 - b. $8.08 \text{ m}^2 \times \text{£}3,200 = \text{£}25,853$ (£507 per dwelling).

Could you please acknowledge the CCG's request for an S106 contribution towards the cost mitigation of the pressures on the local healthcare facility and that it will form part of any future s106 Agreement with the Developers.

Historic England:

The significance of the site

The Imperial Hotel sits in a glorious position overlooking Torquay and the Tor Bay. The hotel is not a designated heritage asset and because of the major alterations that have been carried out to it, particularly in the middle 20th century, we do not consider it to be worthy of undesignated heritage asset status. It was built in 1866 in the Italianate style, and was originally a well detailed and elegant example of the need to cater for a burgeoning 19th century tourist industry in England. Later phases of modernisation have unfortunately obliterated the original scheme, and resulted in a rather imposing and monolithic appearance, with considerable horizontal emphasis.

The hotel lies within two locally designated conservation areas. The contribution it makes to those special areas presently varies between neutral and poor – the location of car parking, hard landscaping, tennis courts, and the weakness of boundaries and lack of quality planting has resulted in a tired and functional setting, rather than one of quality. This is a typical situation, arising from incremental changes over many years. The hotel also forms a part of the broader setting of many designated and undesignated heritage assets, in particular in wider views from the south and south-west, and from the sea.

The impact of the proposals

The proposals are multiple, but in broad terms result in the creation of a modern boutique hotel, reorganisation of the associated amenity and ancillary spaces, the creation of two apartment blocks, and improvements to the landscaping and boundaries of the hotel.

Comprehensive research has been carried out on the site, and its broader context where it relates to the hotel. The heritage statement, landscape assessment and associated design analysis is very useful in understanding the design approach taken for the proposals. This information base reassures us that the proposals have emerged as an informed response to the context of the site, and heritage and other issues rather than being an after-thought or post-design justification.

Historic England welcomes the proposals, which we consider will result in a sympathetic re-enveloping of the building. The design reintroduces a sense of verticality and elegance to the hotel, with subtle nods to its Italianate origins in the form of the tower and belvedere. The detailing of the balconies bring additional interest to the façade without being overly ornate or extravagant. Measures taken to break the different functions of the hotel and apartments into discreet design elements will restore interest and variety to the hotel, and break down the strong horizontality that currently exists especially in long views to the site. Nonetheless, the continuity of some materials and the colour palette identify the cohesive design approach to the whole. Design references to the earlier hotel are incorporated into the proposals and we welcome this nod to the original building.

The design of the proposed apartment blocks, in terms of their footprint and massing, appears to be appropriate to their locations within the site in relation to their broader setting. The new crescent shaped building of accommodation is a bold design with a ‘top hat’ effect that helps to ground the building and emphasises its relationship with the boundary of the site. It is a contemporary version of the modernist hotel apartment block, and fits into the character of Torquay well. Again, similarity of materials and colour palette helps to identify the building as being part of the group, but of individual character.

We are also supportive of the re-ordering of the hotel’s external spaces, boundaries, and efforts to reflect the planting character of the area in the hotel’s grounds. Views into the site from public spaces are important in identifying the function of the building, the quality of hotel offer, and the wider landscape setting of Torquay. In our opinion, those views will be markedly improved from the existing, despite minor increases in height in some areas. The overall impression of the site, and the experience and sense of arrival to the hotel will be much improved.

We believe that this proposal could therefore result in enhancements to the two conservation areas associated with the site. The contribution that the hotel will make to the conservation areas will become a positive one – achieving the required preservation or enhancement that guides development within these special areas. Other more distant heritage assets within Torquay are not affected by these proposals, except that their broader setting will be improved by the proposals.

Historic England's position

Historic England supports good quality, contextually appropriate contemporary design. We consider that the approach to the site overall reflects Torquay's tradition of contemporary and confident design. The level of quality demonstrates the aspirations of the hotel owner and Torquay to be a superior tourism and leisure destination. The design, stemming from good quality research and understanding of the landscape, site and historic context, is of a very high standard. The proposals result in beneficial impacts to the conservations areas in and beside which the hotel lies. Historic England welcomes the scheme and considers it to be an exemplar approach, which we commend.

We refer you to the National Planning Policy Framework (NPPF), paragraph 192, which emphasises the desirability of new development making a positive contribution to local character and distinctiveness. Also, paragraph 200 which states that local planning authorities should look for opportunities for new development within conservation areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.

Recommendation

Historic England supports the application on heritage grounds. We consider that the application meets the requirements of the NPPF, in particular paragraph numbers 192 and 200.

In determining this application you should bear in mind the statutory duty of 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.

Design Review Panel:

In summary the DRP offered full support as part of the established Planning Performance Agreement pre-application process. Comments are set out in brief below:

- The panel welcomed the whole site strategy.
- Movement and arrival within the site were seen as critical. The access to the SWCP and the overall benefits of walking and cycling were discussed.
- The architectural approach was supported with some challenges around the final presentation.
- The panel were broadly supportive of the residential and hotel components subject to design considerations.

Planning Officer Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

1. Principle of Development
2. Economic Benefits
3. Design and Visual Impact
4. Impact on Heritage Assets
5. Impact on Residential Amenity
6. Impact on Highway Safety
7. Designing out Crime
8. Ecology and Biodiversity
9. Drainage and Flood Risk
10. Low Carbon Development
11. Other Considerations
12. Section 106 Agreements

1. Principle of Development

The investment in the site is supported by the Development Plan's tourism and housing policies when taken as a whole. Each of the two elements, hotel and residential, are detailed below:

The Hotel

Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to support the local economy. The Policy states that the Council wishes to see the quality of accommodation improved, with a wider range of new and refurbished facilities and services. This will be achieved by supporting the principle of improved tourist accommodation, subject to other policies in the Local Plan, and the creation of new high quality tourism accommodation in sustainable, accessible locations.

The proposal would result in substantial improvements to the existing hotel. It is clearly a key hotel complex within the Torquay Harbourside and Waterfront Core Tourism Investment Area. The investment and improvement to the hotel is therefore supported by Policy TO1 of the Local Plan.

Policy TE1 of the Torquay Neighbourhood Plan states that new tourism developments will be supported where they make use of brownfield land. Policy TS4 (Support for Brownfield and Greenfield Development) confirms that: development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan.

Furthermore, the Neighbourhood Plan specifically addresses tourism and highlights Torquay as a 'destination in transition'. It refers to 'Turning the Tide for Tourism', which identifies an oversupply of in small B&B guest house sector (less than 10 rooms) with a significant

oversupply of low quality, low value added small hotels. There is an identified lack of good quality, large hotels and branded chains.

The hotel element of the proposal is therefore considered to be acceptable in principle.

Residential

The site is close to services and facilities and presents the efficient use of brownfield land that would help meet housing need and the Council's 5 year housing supply. This accords with the objectives of Policies H1 (Applications for new homes), SS1 (Growth strategy for a prosperous Torbay), SS11 (Sustainable communities), SS12 (Housing) and SS13 (Five year housing supply) of the Local Plan.

Local Plan Policy H1 states that proposals for new homes in the built-up areas of Torbay will be supported (subject to other Plan policies); promotes re-use of brownfield land and urban regeneration; and seeks to reduce the need to travel by car.

Local Plan Policy SS1 sets out a growth strategy for a prosperous Torbay, supports regeneration that creates sustainable living, working and leisure environments, and seeks delivery of homes.

Policy SS11 of the Local Plan seeks sustainable housing development for future communities and other policies of the Plan provide preference for brownfield development in accessible locations if at all possible. The proposed 51 residential dwellings would be located on brownfield land within walking distance, approximately 500m of Torquay town centre. This offers a range of amenities including public transport, retail, commercial and employment opportunities.

Policy SS12 of the Local Plan sets out how the Authority will maintain a 5 year housing supply on a rolling basis, but it is accepted that Torbay currently has under a 3 year housing land supply. Therefore, the terms of the NPPF apply where a tilted balance applies in favour of sustainable housing proposals and the Local Plan cannot be considered up to date with regard to housing planning policy.

The Torquay Neighbourhood Plan Policy TS4 states that development proposals for brownfield sites will be supported in principle.

Therefore, given its highly sustainable, town centre location the proposed development is supported in principle by Local Plan Policies H1, SS1, SS11, SS12, SS13 and by Neighbourhood Plan Policy TS4.

2. Economic benefits

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort.

Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the

Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism and catering.

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

The proposal will create jobs during the construction period and the hotel will have a revitalised offer that will support between 70 to 90 FTE jobs. This would also generate a range of third party jobs and revenue such as food and drink suppliers, materials and furnishing suppliers which will all take advantage of increased occupancy rates and refurbished facilities.

The secondary effect of more visitors, greater occupancy rates and a longer, potentially year-round season will mean more visits to nearby cafes, restaurants, shops and attractions, bringing economic benefits to the area as a whole.

The TDA supports the application, noting that: the proposal aligns with the aims and objectives of the English Riviera Destination Management Plan, specially investing in the quality of hotel accommodation and supporting the year round offer to attract new visitors (domestic and international). The product development will also provide skills opportunities further developing the career aspirations in the tourism and hospitality sector.

The applicant has submitted a viability assessment which has been independently verified. Subject to the findings of this additional contributions in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, may be required on terms acceptable to Officers.

Torbay cannot demonstrate a five year housing land supply, and therefore significant weight is given to the provision of additional housing. The application proposes 51 open market homes and does not provide any affordable housing. Policy H2 of the Local Plan seeks 20% affordable housing provided on site unless the scheme brings regeneration benefits. The demonstrated economic benefits of improving the hotel facilities, combined with the positive impact to the conservation area are a material factor in this respect. In any respect, it has been accepted the site and proposed dwellings are not suitable for affordable housing.

The submitted viability assessment demonstrates the large investment in the hotel and grounds. It is therefore accepted that the hotel has no clear viable future without investment, and it is therefore essential to claw this virtual investment back (through a future valuation) and to not allow apartments to be occupied until a substantial progress has been made to finish the hotel. Therefore, a pre-occupancy condition has been included to ensure 75% of the hotel façade is completed.

Given that the proposal would modernise and enhance the tourism facilities available at the site; create new jobs; and is expected to generate significant additional spend within the local economy, it is considered that it complies with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan, and would bring economic benefits to the Bay.

3. Design and Visual Impact

The National Planning Policy Framework (2021) 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.

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

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

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

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

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

The agreed PPA set out several key milestones and expectations for consultation. Both Design Review Panel (DRP) and Historic England were involved at pre-application stage. Historic England comments are dealt with in the following heritage section. The DRP provided positive comments during the meeting and in their finalised report. Their comments are regarded as a material consideration.

Feedback from the panel concluded that the general arrangement and strategic approaches to the site were well considered and that the design process and research demonstrated were impressive. The main challenge was to ensure that the detailed architectural language

and composition of the whole site were refined. The feedback challenged the visual 'gap' between uses, particularly on the seaward side. DRP also stated that the design needs to stand on its 'own merits'. In response to the comments further massing and elevational changes were made to distinguish the original hotel from the late 19th century hotel wing and Block D. The vertical elevational treatment to Block D facade was also amended to reflect proportions of the remodelled hotel. A greater variation to the building silhouette through a raised open parapet to Block D, new belvedere to the Hotel and improved articulation of the Hotel parapets and roof-scape were also developed. The top hat design to Block A with vertical rhythm and balconies were added to the western elevation.

It is considered that the submitted scheme provides a whole site response and includes the refurbishment of the exterior and interior of the hotel with reorganise the hotel rooms. Given the substantial change, it would not be possible to completely renovate the existing building, however, the proposals attempt the original quality through careful analysis and the use of architectural proportions, materials and grandeur of the original. The hotel proposals replicate the material palette of the original and local examples of the Italianate style, including painted stucco and natural slate roofs. However, to create a further level of quality and to enhance the proposed architectural details, it is proposed to utilise a bronze finish to all the metal work.

The proposals seek to make significant improvements to the entrance experience for guests and those accessing the SWCP. New stone boundary walls with hedging create a sense of enclosure and frame the entrance view. The existing staff accommodation is consolidated with the offices and kitchens below; allowing removal of the upper floor extension which was undertaken in the 1960s.

To the east of the hotel, a new spa and beach club is proposed, forming a contemporary extension to the reinstated colonnade, linking back to the lower ground floor and integrating with the wider landscape. The removal of several extensions, including the 1999 conservatory and Haldon Room also improves and simplifies the external appearance.

Building A is located on the site of the existing tennis courts and unused staff accommodation block along Parkhill Road. These proposals have evolved through discussions with Historic England, the Built Heritage Assessment and informed by a detailed visual impact assessment. Conceived as a 'villa' within a landscape setting, incorporating a boundary treatment of tall stone walls and evergreen planting. The proposed layout, set out in a crescent, maximises sea views for each of the 16 apartments. It references several historic local precedents including Abbey Crescent, Hesketh Crescent and Lisburne Crescent.

Building D was constructed in the 1960s and formed the western wing of the hotel. The building will be re-purposed and re-clad to create 25 new sea facing apartments. A modest extension to the rear, either side of the existing stair and lift, would improve efficiency while limiting the visual impact of the new accommodation. Parking for both Buildings D and B are concealed below a new podium garden - set at the same level as the junction of the hotel drive and Parkhill Road. This creates an increase in landscaping and visually reduces the height of Building D from the north. The position and articulation of the new and remodelled buildings allows the apartments to be viewed as contemporary villas within a landscape

setting and greatly improves the legibility of the original hotel. The site of the existing spa and Torbay suite, adjacent to Imperial Court will create 10 new maisonettes of a similar height and footprint to the existing – retaining the existing visual break with the adjacent apartments which is further improved by the inclusion of an extensive grass roof.

There have been a number of objections around the design of the proposal which have been described as not in keeping with the local area. Objections about the proposals impact and overdevelopment. However, the proposal has been through a rigorous design process and evolved in response to comments from the community, Historic England, DRP and officers. The form and layout of both the hotel and residential schemes are considered to make effective use of brownfield land and respond well to the topography of the site. The two developments would result in an enhancement of a site which includes many dated and tired structures.

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

4. Impact on Heritage Assets

NPPF (2021) provides guidance as to 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 (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 199). 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 200). 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 202).

In terms of the Local Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan). This is aligned with the duties for decisions as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, 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.

A Built Heritage Statement has been submitted with the application. It states that the proposal has the potential to affect the character and appearance of Torquay Harbour Conservation Area, in which all the buildings and the majority of the grounds of the Imperial Hotel are located, and Lincombes Conservation Area, of which the south-eastern end of the Hotel's grounds and car park is located. There is also potential to affect the setting of the Lincombes Conservation Area which, in relation to the site, comprises an element of

Torquay Harbour Conservation Area. The scheme is only considered in terms of how it may affect the significance of these conservation areas.

There are several listed buildings on the slopes of Vane and Park Hills above the Hotel. These include Vane Hill Towers (Grade II) (originally Villa Lugano), Sundial Lodge (Grade II); and Devonshire Hotel (Grade II). It is accepted that there may be some partial intervisibility, however this exists through highly filtered planting and woodland across the hills. Consequently, it is considered that there is no clear legibility of these designated assets' significance from the site and that change in their wider setting from the proposals will not affect their significance. The Bungalow (former Bungalow Hotel) is only 60m east of the Hotel and is the nearest Grade II listed building. Its single-storey height and dense planting mean there is also no clear legibility between it and the proposal.

The submitted Built Heritage Assessment demonstrates that the development of the site will deliver a moderate level of enhancement to the character, appearance and significance of the Torquay Harbour Conservation Area and that of the Lincombes Conservation Area. The applicant makes the point that should the Imperial Hotel be identified as a non-designated heritage asset, which is not currently the case, the developed scheme would deliver a high level of enhancement to the significance of the Hotel. These enhancements and would be enhancements delivered by the developed scheme represent a wholly heritage-based form of public benefit.

The proposal will not impact on any currently known sites of archaeological interest. The potential for as yet undiscovered archaeology within the site is unknown, but likely to be low due to modern era building and terracing. However, the Imperial Hotel is in origin a significant structure associated with Torbay's Victorian and tourism heritage. It warrants inclusion as a heritage asset on the Devon and Torbay Historic Environment Record (HER). The County Archaeologist and Historic Environment Manager has no objection but recommends a limited programme of historic building recording.

Historic England also support the proposal. The comprehensive research including the heritage statement, landscape assessment and associated design analysis provides reassurance that the proposals have emerged as an informed response to the context of the site, and heritage and other issues rather than being an after-thought or post-design justification.

Historic England also consider the proposals will result in a sympathetic re-enveloping of the building. They state that the design reintroduces a sense of verticality and elegance to the hotel, with subtle nods to its Italianate origins in the form of the tower and belvedere. The detailing of the balconies brings additional interest to the facade without being overly ornate or extravagant. Measures taken to break the different functions of the hotel and apartments into discreet design elements will restore interest and variety to the hotel and break down the strong horizontality that currently exists especially in long views to the site. Nonetheless, the continuity of some materials and the colour palette identify the cohesive design approach to the whole. Design references to the earlier hotel are incorporated into the proposals and they welcomed this nod to the original building.

The design of the proposed apartment blocks, in terms of their footprint and massing, appears to be appropriate to their locations within the site in relation to their broader setting. The new crescent shaped building of accommodation is a bold design with a 'top hat' effect that helps to ground the building and emphasises its relationship with the boundary of the site. It is a contemporary version of the modernist hotel apartment block and fits into the character of Torquay well. Again, similarity of materials and colour palette helps to identify the building as being part of the group, but of individual character.

Historic England are also supportive of the re-ordering of the hotel's external spaces, boundaries, and efforts to reflect the planting character of the area in the hotel's grounds. Views into the site from public spaces are important in identifying the function of the building, the quality of hotel offer, and the wider landscape setting of Torquay. In their opinion, those views will be markedly improved from the existing, despite minor increases in height in some areas. The overall impression of the site, and the experience and sense of arrival to the hotel will be much improved.

The proposal is considered to sustain and enhance the Lincombes Conservation Area and the setting of the Harbour Conservation Area. It is also considered that the proposal does not harm the setting of listed buildings in the vicinity. As such the development is in accordance with Local Plan Policies SS10, HE1 and Policy TH10 of the Torquay Neighbourhood Plan.

5. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Policy DE4 suggests that tall buildings should respect surrounding residential amenities and not have an adverse impact on living conditions in terms of overlooking, overshadowing and being overbearing.

The closest existing residential dwellings to the proposed hotel are over 50m from the proposed hotel. Despite the proposed increase in height of the hotel building, the distance is considered sufficient to prevent unacceptable levels of overlooking/intervisibility. It is also noted that the existing hotel is closer to adjacent residential properties so in terms of overlooking the proposal is considered to be an improvement. A minimum 21m intervisibility between windows is maintained for all units and Imperial Court, and, in general, distances are significantly greater and at an oblique angle. Given the distances between the proposed hotel and the existing residential properties it is not considered that the development would result in a loss of light or outlook.

A range of public comments have been received regarding the impact on amenity particularly around potential noise, loss of light, privacy and overlooking. Torquay Neighbourhood Forum also highlighted the use of the road which runs in front of Imperial Court for vehicles servicing the Hotel. In response to these comments, it is clear the existing hotel benefits from a legal right of access over the car park of Imperial Court and the hotel could, at any time, utilise this for service access under its current lawful operation as a hotel. Therefore, the proposed access route is no worse than the current available position.

The submitted information and statement notes that the service vehicles would not pass close to the building entrances and would not require the removal of the existing footway

provided adjacent to the access road and barriers. Service vehicles within the context of the car park and service yard would be slow moving and professional drivers of HGV would have sufficient visibility of pedestrians to ensure that they gave way to them. Additional signage could be introduced to reinforce pedestrian priority in this space and maintain the maximum speed limit of 5 – 10 mph.

The Transport Assessment also notes that the increase in vehicle movements would be very small compared to the current operation of a residential car park. The present layout provides good visibility between pedestrians and the drivers of vehicles, this combined with slow speeds would give both parties sufficient time to consider how they need to modify their progress through this space to avoid any unwanted interaction.

The provision of a covered service yard, in approximately the same location as the existing service area, coupled with a reduction in guestroom numbers will help reduce any noise associated with deliveries. Turning and reversing of service vehicles will also be minimised increasing pedestrian safety, particularly in relation to the SWCP.

Imperial Court already shares a party wall with the Imperial Hotel, being originally constructed as additional guest rooms and apartments for the hotel complex. The removal adjacent Torbay suite and spa will improve amenity for residents of Imperial Court. The current function space has capacity for 350 with access to a 150sqm terrace. Whereas the proposals are for 10 maisonettes.

The BRE Daylight Sunlight Analysis in relation to impact on Imperial Court, submitted with the application, concludes the proposed development satisfies the BRE direct sunlight to windows requirements, all main windows at Imperial Court with a requirement for daylight pass the Vertical Sky Component test and all rooms pass the daylight distribution test. Garden areas also meet the BRE recommendations for overshadowing.

The residential dwellings comply with the internal and external amenity spaces set out in the Torbay Local Plan and the Torquay Neighbourhood Plan. A suitable level of parking is also provided with a minimum of 2 parking spaces per dwelling provided, plus visitor spaces.

The proposal provides shared streets, links to the wider hotel grounds and to the coastal footpath. It would maintain and improve the existing landscaped character of the area, overall, the dwellings would provide a good quality residential environment.

The consultation response from the Councils Community Safety team suggests the use of a condition requesting a construction demolition management plan which will aim to minimise dust and noise disturbance during the demolition and construction phases. A condition is also included to secure the provision of a Waste Management Plan.

Subject to the use of conditions requiring a construction demolition management plan, waste management plan and conditions relating the details and implementation of 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 to natural light, privacy, or other nuisances such as noise, dust, or light intrusion. As such, the proposals are in accordance with Policy DE3 and DE4 of the Torbay Local Plan.

6. Impact on Highway Safety

Policies TA2 (Development Access) states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 (Parking Requirements) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per guestroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

Policy TH9 of the Torquay Neighbourhood Plan states that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel. Policies THW1 (Travel Plans), THW5 (Access to Sustainable Transport), THW6 (Cycle Storage and changing facilities), and TTR2 (Sustainable Communities) are also of relevance.

Access to the Hotel will be retained in its existing location from Parkhill Road. The existing access road is approximately 7.3m wide with a 1.6m wide footway running along its eastern edge. A 1.8m wide footway is proposed along the western edge of the road to improve amenity for pedestrians and to reduce the carriageway width to around 5.6m. This is more than sufficient for two cars to pass, and for a car and an HGV or coach to pass. The relocation of the service yard access will reduce the volume of large vehicles accessing the front of the hotel, and therefore the reduced carriageway width is considered acceptable.

At the edge of the hotel forecourt, it is intended to re-introduce gate piers either side of the carriageway to add a sense of arrival and enclosure. This access way will narrow to 3.8m which will require on coming vehicles to give way to one another, helping to manage traffic speeds and driver behaviour. The piers will be located on full height kerb build outs to protect them from vehicle strikes. One of the piers will be located within the extent of the public highway and one will sit with the land under the hotel's ownership. A legal agreement will need to be entered into making the hotel operator liable for maintenance and repair of the piers, particularly in the event of a vehicle strike. This has been included as a condition.

Service access is proposed to be reconfigured as part of the proposal. Service vehicles would be removed from the main hotel access, and access gained via the Imperial Court site to the west over which the hotel benefits from rights of access. The impacts of this have been covered previously in this report.

The Highway Authority requested a range of additional and amended information during the application process. A swept path analysis to illustrate a Fire Engine successfully accessing the site in a forward gear, accessing and egressing the site was considered acceptable. Coach access to the site will continue as the site currently operates with vehicles guided and turned on-site, therefore the proposals offer a nil-detriment policy when compared to the existing situation. A condition has been included to confirm how this will operate.

The publicly accessible permissive path is also proposed to the east of the main hotel access junction, running east along the southern side of Parkhill Road. The path would form a continuation of the existing footway which ceases just to the east of the junction. Due to the limited highway space, the path would be provided behind the existing boundary wall extending approximately 40m to the east to a historic gateway to the hotel site. At this point, pedestrians would pass through the existing gateway back onto Parkhill Road. This path, within the hotel's land, would reduce the length of Parkhill Road without footway provision to around 20m. A number of options have been considered to address the lack of footway along the remaining 20m, including the introduction of virtual and physical footways along the southern side of Parkhill Road with priority working introduced to allow the carriageway to be narrowed. This matter was debated during and after the PPA process and is considered acceptable.

The Block A car park will be reached via a new vehicular access on to Parkhill Road. The access will be located at the eastern end of the car park as this provides the best opportunity for an appropriate visibility splay along Parkhill Road.

Along the western side of the access road a new access is proposed for one of the two residential car parks which will be constructed for Blocks B and D. The access will serve a 36-space car park associated with Blocks B and D, including two spaces marked for use by blue badge holders.

The changes to the access ramp, the provision of the at-grade pedestrian route and improvements to the parking layout to reduce the number of substandard spaces would result in the loss of 11 parking spaces in the upper car park bringing the number of spaces to 83. The lower parking level would be impacted by the widening of the ramp, but the number of spaces would be unchanged at 22. It is proposed that 6 spaces within the lower parking level are provided as accessible bays for blue badge holders. A further 10 spaces will be provided within the hotel forecourt including two accessible spaces for use by blue badge holders. The changes would reduce the hotel parking provision to 115 spaces which is a ratio of 1.04 spaces per bedroom, which is above the minimum requirement for hotels in Torbay.

Cycle parking for staff and guests will also be provided. 12 cycle parking spaces will be provided within or adjacent to the service yard for hotel staff. The cycle parking will be secure and protected from weather. Based on an employee density of 1 FTE per 1 bedrooms as set out in the 2015 HCA Employment Density Guide, this provides parking for 10% of FTE staff, although this is likely to represent a significantly greater proportion of staff working on site at any one time, allowing for staff changeover periods. For hotel guests a further 10 cycle parking spaces will be provided in a store located in the lower car park. This provides parking for around 9% of rooms. The hotel will also consider the introduction of cycle hire facilities to enable guests travelling without a bicycle to use one during their stay.

Car parking for Block A will be provided at a rate of one space per dwelling, with 16 spaces provided within the Block A car park. No visitor parking spaces will be provided on site. As on-street parking is not permitted along Parkhill Road, it is suggested that visitors can use the public Beacon Quay car park which is located within 200m of the development site. Within the car park, at least 20% of spaces will be provided with active electric charging

points and all spaces will be designed so that they have passive provision for conversion in the future. Cycle parking for block A residents will be provided in a secure store beneath Block A and accessed from the service road. The cycle store will provide 16 spaces, one cycle parking space per dwelling.

Car parking for Blocks B and D will be provided to the north of the existing hotel building and to the east of residential Block A. The car park provides 36 parking spaces, equivalent to one space per apartment. Within the car park, at least 20% of spaces will be provided with electric charging points and all spaces will be designed so that they have passive provision for conversion in the future. As with the Block A car park, no provision is made for visitor parking within the site as there is alternative provision available within the nearby public car park. Cycle parking for the blocks will be provided within a cycle store located at the base of Block D and accessed via the podium garden. The secure store will provide 36 spaces, one cycle parking space per dwelling.

Subject to the conditions set out above, the Council's Strategic Transport Officer has advised that the proposal is considered acceptable and meets the requirements of Policy TA1, TA2 and TA3, TH9 of the Torquay Neighbourhood Plan and the NPPF (2021).

7. Designing out Crime

No objections are raised subject to the use of a condition to secure a scheme of crime prevention measures, such as CCTV. It is recommended that this condition be imposed should planning permission be granted. Subject to the use of this condition, the proposal is in accordance with Policy SS11 of the Local Plan.

8. Ecology and Biodiversity

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. Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features. As the site is over 5ha in area an Environment Impact Assessment (EIA) screening was undertaken, the result of this was that the proposal did not require an EIA.

Paragraph 180 of the NPPF states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. The anticipated Environment Bill will make it a statutory requirement to provide a 10% net gain in biodiversity. The proposed development will provide a 16.35% Biodiversity Net Gain. This will be achieved through the delivery of habitat creation within the site including wildflower grassland creation (total area 0.07ha). The creation of a green roof on a portion of the hotel building (total area 0.05ha). Creation of the rain garden (total area 0.03ha) and sensory/ornamental planting located throughout the development (total area 0.3ha).

Roost emergence surveys were undertaken on multiple buildings which identified three locations where bats were present. The survey showed they were all day roosts with low/moderate conservation significance. All three roosts would be lost as part of the proposal. A condition has been included to ensure mitigation through compensatory roosting provision provided through bespoke bat building and roosting provisions within new buildings on site. In order to manage flight lines and foraging, a condition has also been included to provide further details on lighting of the site. The proposal therefore meets the three Habitats Regulations tests as the proposals fall within the remit of overriding public interest as the development seeks to provide economic benefits to the wider Torbay area, there are no alternatives to the loss of the buildings. Finally, a replacement bat roost will be provided to ensure the favourable conservation status of the bat populations are maintained.

Further conditions have been included to ensure the future protection of nesting birds, badgers and hedgehogs in the area.

The Senior Tree and Landscape Officer supports the proposals which seek to establish tree retention and mitigate tree/shrub loss with new planting. The proposed tree removals are considered of low arboricultural merit or shrub beds. The Officer recommends detailed conditions around tree protection and tree planting which have been included in this report.

It is noted that there have been comments from neighbouring residents around trees and wildlife. The rigorous ecological assessments and mitigation are considered acceptable with no objection from Natural England. The high level of biodiversity netgain is also supported.

Subject to the addition of suitable conditions the proposal is therefore deemed to comply with Policies NC1 and C4 of the Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the NPPF (2021).

9. Drainage and Flood Risk

The site is approximately 50m north of Lyme Bay, Torbay SAC and the Torbay Marine Conservation Zone (MCZ). The development proposals would result in an additional 51 residential units within 50m of Lyme Bay and Torbay SAC interest features. There is potential for an increase in waterborne pollutants to be produced and enter controlled water during the construction phase of development. In addition, new residential development could increase the demand on foul water systems. Effects of increased recreational pressure have been screened out of the submitted assessment given the small total net increase anticipated compared with the total number of Torbay visitors. It is believed that this scheme will cause a Likely Significant Effect on the Lyme Bay and Torbay SAC in the absence of mitigation. Therefore, an HRA has been produced and agreed with Natural England.

Natural England had no objection subject to the appropriate mitigation measures provided within the Appropriate Assessment and MCZ Assessment are appropriately secured. Detailed conditions have been suggested as part of this report. South West Water also have no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy.

A Construction and Environmental Management Plan (CEMP) will also need to be submitted and agreed via planning condition and provide measures of construction controls on dust and reducing contaminated run-off, pollution control measures.

The Environment Agency has no objection.

The Engineering Service Manager has no objection providing a condition is included that prior to construction works commencing on site detailed geotechnical investigations will be undertaken in order to assess the effects of the borehole/directional drill on the stability of the cliff.

Given the nature of the proposal, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policies ER1 and ER2 of the Local Plan.

10. Low Carbon Development

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

The effects on the environment and sustainability have been considered as an integral part of this scheme. Replacing buildings have significant energy, carbon and financial cost implications. The retention of several existing buildings on site is recognised as positive and part of the overall approach to sustainable design.

The construction aims to meet the highest design and performance qualities, with Building Regulation required u-values being met or exceeded. A Mechanical, Electrical and Piped Engineering report has been submitted with the application. The MEP design process ensures that all aspects of MEP design are considered, including the careful integration of services into the architectural form of the development, with careful consideration acoustic, aesthetic, safety and performance requirements. The focus is on improving the thermally efficiency of the existing building façade and targeting good fabric performance for the new build elements of the project. This combined with the adoption of best practice building services technology will aim to deliver a high quality, high efficiency, low carbon building.

This be lean, be clean, be green approach includes:

- The energy strategy aims to firstly implement passive design and energy efficiency measures to reduce energy demand and CO2 emissions.
- The strategy will be to consider the use of clean energy source such as heat pump technologies for space heating and cooling.
- Significant CO2 savings are expected through the Be Lean and Be Clean measures. However, to maximise CO2 reduction, the potential for roof mounted Photovoltaic cells.

This design approach to the site is therefore in accordance with Local Plan Policies SS3 and ES1.

11. Other Considerations

The Council is unable to demonstrate a five year supply of deliverable housing land. The five year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the current housing supply position, it is advised that in determining the application, the tilted balance is in favour of sustainable development as set out in Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to be in conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Section 106 Agreements

Torbay and South Devon NHS Foundation Trust

The contribution requested for this proposed development of 51 dwellings is £50,519.00. This will be used directly towards the increased demand on the health services created by this proposed development and to provide additional services to meet patient demand.

NHS Devon Clinical Commissioning Group (CCG)

The contribution requested is £25,853 (£507 per dwelling). The combined surgeries of Parkhill Surgery (Pembroke Medical Group), Southover Medical Practice and Croft Hall Surgery are already over capacity within their existing footprint therefore it follows that to have a sustainable development in human health terms the whole local healthcare provision will require. The contribution would therefore go towards increased space per patient at each site.

The applicant has submitted a viability assessment which is being independently verified. Subject to the findings of this additional contributions in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, may be required on terms acceptable to Officers with regard to affordable housing provision.

This proposal includes a system of communal waste and recycling arrangements to be used rather than the bin and box system which is the standard in Torbay. Given this rarely achieves the same levels of recycling that the standard box system does the application is likely to require a contribution towards waste and recycling.

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.

The hotel element would lead to the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to support the local economy.

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

The Social Role

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

Impacts on neighbour amenity have been discussed above where it is concluded that the proposal does not cause significant harm to residential amenity.

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

The Environmental role

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

The environmental benefits identified that there would be an increase in biodiversity net gain or essential mitigation as in the case of any landscape/ecological measures to be applied to the development.

The proposed development is in a sustainable location, close to the town centre with a range of public transportation links. It is considered a high quality redevelopment of a brownfield site, enhancing the conservation area, street scene and introducing more sustainable building methods. In respect of the environmental element of sustainable development, the balance is in favour of the development.

Sustainability Conclusion

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

Local Finance Considerations

Community Infrastructure Levy

Hotel

The proposal is for the addition of a tourist facility, Torbay Council collect CIL payments for new dwellings and for larger out-of-town/district centre retail and food and drink developments. Therefore, the proposal would not attract a CIL payment, as holiday accommodation will be zero rated for CIL so long as they are subject to a condition and planning obligation restricting their occupation for tourism purposes, and are rated for business rates. If permission is subsequently sought for either a change of use or release of condition in order to permit permanent residential accommodation, the Council will seek contributions towards the additional infrastructure impact of permanent residential use.

Residential

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

EIA/HRA

EIA:

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

HRA:

In view of the nature of the application there is not likely to be a Significant Effect on the Annex I habitats - alone or in-combination with other proposals or projects.

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 and the revival of an important tourism asset.

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. The Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

In this case the signing of a PPA, use of workshops with theme leads enabled many of the early design issues to evolve prior to submission. Early engagement with the local community, statutory bodies, particularly Historic England and also the Design Review Panel shaped the final scheme.

Conclusions and Reasons for Decision

The proposal would result in the enhancement of a hotel facility and creation of additional housing on an underutilised brownfield site within a Core Tourism Investment Area. It is considered that the proposal would deliver visual, economic, and regeneration benefits and none of the harm identified is considered sufficient to outweigh these benefits.

The proposal is acceptable in principle as a major enhancement to the hotel and wider site, an enhancement of the Lincombes Conservation Area and setting of the Harbour Conservation Area. It is also considered that there would be no harm to the setting of listed buildings with a public benefit through the re-use of the hotel and the provision of much needed additional housing on brownfield land.

It would provide acceptable arrangement in relation to residential amenity, highways and flood risk. The proposals are in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Delegate authority to the Divisional Director - Planning, Housing & Climate Emergency to grant conditional approval subject to the conditions detailed below and the completion of a legal agreement securing the contributions identified in the body of the report. Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to also be delegated to the Divisional Director - Planning, Housing & Climate Emergency.

Conditions

Pre-occupancy condition:

A minimum of 75% of the works to hotel façade improvements shall have been completed in accordance with an agreed plan of works prior to any occupation of the residential building described as Block D hereby approved. The plan shall be submitted prior to any works commencing on site.

Reason: To ensure the works to hotel are brought forward in accordance with Torbay Local Plan Policy TO1.

This condition needs to be a pre-commencement condition to ensure the two elements, residential and hotel use are linked and the hotel refurbishment is delivered.

Section 278 Highways Agreement:

The development hereby approved shall not be brought into use until all relevant highways agreements, such as Section 278, have been entered into and associated works on the highway carried out to the satisfaction of the Local Highway Authority. The agreement shall include the future management, protection and liability for the gate post shown within the highway on plan number BD 0253 SD 804 R04.

Reason: To provide safe and sustainable access to, and around, the site for all users and to ensure the liability around the post maintenance lies with the applicant in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

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

Geotechnical desk top study:

Prior to commencement of development detailed geotechnical investigations must be undertaken to assess the effects of the borehole/directional drill on the stability of the cliff.

Reason: To appropriately manage the stability of the site and protect geodiversity in accordance with Policies NC1 Biodiversity and Geodiversity, C3 Coastal Change Management Area and ER4 Ground Stability of the Torbay Local Plan 2012-2030.

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

Building recording:

Prior to commencement of development an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 Torbay Local Plan 2012-2030 and paragraph 205 of the National Planning Policy Framework (2021), that an appropriate record is made of the historic building affected by the development.

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

Designing Out Crime:

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

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

Waste Management Plan:

A waste management plan shall be prepared and agreed by the Local Planning Authority in writing prior to the occupation of any proposed building. The development shall thereafter be operated in accordance with the approved details.

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

Detailed design:

Prior to installation details of all external materials shall be submitted to and approved in writing by the Local Planning Authority including, but not limited to:

1. A sample of the proposed facing materials,
2. Window and door materials, colours and profiles,
3. Details of all fencing and other mains of enclosures including balconies,
4. Rainwater goods,
5. Block D framework dimensions, materials and colour finish.

The development shall proceed in full accordance with the approved detail and shall be retained as such for the lifetime of the development.

Reason: In order to protect visual character and heritage assets in accordance with Policies C2, DE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan and advice contained within the NPPF.

Window and door details:

Prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

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

- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the Conservation Area in accordance with Policy SS10 of the Torbay Local Plan and TH10 of the Torquay Neighbourhood Plan.

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: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies NC1 and TA1 of the Torbay Local Plan 2012-2030.

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

Construction and Environmental Management Plan:

The development hereby approved (including demolition, ground works, and vegetation clearance) shall be done in strict accordance with a Construction Environmental Management Plan which shall be submitted and approved in writing by the Local Planning Authority prior to construction. It will include details of environmental protection throughout the construction phase and be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Appropriate Assessment and MCZ Assessment:

The development shall be undertaken in full accordance with the approved Appropriate Assessment and MCZ Assessment by (EAD Ecology, December 2020) received 1 February 2021.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies NC1 and TA1 of the Torbay Local Plan.

All mitigation measures within the Appropriate Assessment and MCZ Assessment are appropriately secured in any planning permission.

Landscape and Ecological Management Plan:

The development hereby approved shall be carried out and managed in strict accordance with a Landscape and Ecological Management Plan which shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of development. It will include details of relating to habitat protection and creation, species specification and management and be adhered to and implemented throughout the construction period strictly in accordance with the approved details and the development managed in accordance with the approved LEMP for its lifetime.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

This needs to be a pre-commencement condition to ensure biodiversity is safeguarded from the onset of construction activity

Ecological Impact Assessment:

The works shall be undertaken in accordance with the details set out in the Ecological Impact Assessment (EAD Ecology, December 2020) and any measures required under licence from Natural England.

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

Arboricultural Method Statement:

Prior to the commencement of development, a detailed arboricultural method statement, which shall include detail of site monitoring, potential vehicular movement and specifically demonstrate the impact on the tree identified T7 on the submitted plans will not be detrimental to the tree in the long term, shall be submitted to the Council for its approval in writing. The approved arboricultural method statement measures shall be carried out in full during the demolition and construction phases.

Reason: To ensure that trees are adequately protected while development is in progress, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF.

This information is required prior to the commencement of development in order to ensure that the trees protected by a Tree Preservation Order are not damaged during the construction phase

Tree and hedgerow protection:

The trees and hedging along the south and east boundaries shall be retained for the lifetime of the development.

(i) Any work carried out to trees and hedges to be retained on site or close to the boundary of the site shall be with the written approval of the Local Planning Authority. Such work will be to British BS 3998: 1989 as a minimum standard.

(ii) The development hereby approved shall not commence, and no materials shall be brought onto site, until the trees and hedges to be retained on adjoining sites are protected by fencing as per BS 5837: 2005. This will either be chestnut pale fencing or a scaffold structure 2.4 metres high supported durable man-made sheeting (either plywood or OSB of an exterior grade). Chestnut pale fencing will be to BS 1722: Part 4: 1989, as a minimum standard. This will consist of 1.200 mm pales, wired together as per standard, supported on three line wires, secured to fencing posts to a minimum standard of: 1800 mm long, 7 mm (3") top, driven 500 mm into the ground. In addition, straining posts, 1800 mm long by 100 mm (4") top, strutted where a change of direction occurs, will be installed at all ends and corners, at changes of direction, or acute changes of level, and at intervals no exceeding 50 m in straight lengths of fence. The fence will be installed upright, with all posts firmly bedded in the ground and line wires tensioned, and shall be maintained in such a condition throughout the duration of the development.

(iii) The fence shall be installed no closer to the trunk of the retained tree/hedge than the edge of the canopy or a distance equivalent to half the height of the tree/hedge, whichever is the greater.

(iv) The area beneath the tree/hedge and between the trunk of the tree/hedge and the fence will be kept clear and undisturbed at all times. No materials shall be stored within the fenced area; the levels of the land within the fenced area shall not be altered, and no seepage of oils, fuels or chemicals (including cement and cement washings) which may be harmful to trees and hedges shall be allowed onto the fenced area.

(v) No trenches for service runs, or any other excavations shall take place within the fenced area.

(vi) No soil or other surface material shall be removed from the fenced area except by written permission of the Local Authority. Where such a permission is granted, materials shall be removed manually, without powered equipment, taking adequate precautions to prevent damage to tree or hedge roots.

Reason: To ensure that all existing trees and hedges on the adjoining sites are adequately protected while development is in progress, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF.

Waste Management Plan:

A waste management plan shall be prepared and agreed by the Local Planning Authority in writing prior to the occupation of the building for the uses hereby approved. The use shall thereafter be operated in accordance with the approved details.

Reason: In the interests of managing waste storage, collection and recycling in accordance with DE3 of the Torbay Local Plan 2012-2030.

Bat house design:

Prior to the demolition/renovation of the buildings compensatory roosting provision will be provided in the form of a replacement bat roost constructed within the south-eastern corner of the site. The electricity transformer station building will provide year-round roosting opportunities for bats and access for lesser horseshoe bats will be provided via an open rectangular slot above a wooden access. The following shall be incorporated into the development (in accordance with manufacturer's instructions for correct siting and installation) and retained at all times thereafter:

- Five Schwegler 1FR bat tubes (or similar approved) would be integrated into buildings, above 3m height in locations not subject to lighting and avoiding north-facing aspects.
- Schwegler 2F bat boxes (or similar approved) would be attached to retained trees within the site; these would also be positioned above 3m height avoiding north-facing aspects, with the precise locations to be determined on-site by an ecologist.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Bat licence:

No works shall commence until a 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: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

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

No building demolition or vegetation clearance:

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.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Badger survey:

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, shall be submitted to and approved in writing by the local planning authority.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

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

Lighting strategy:

Prior to the first use of the hotel development hereby approved, a detailed lighting strategy will be submitted for agreement with the Local Planning Authority. The strategy will minimise indirect impacts from lighting associated with the pre-construction, during construction and operational activities, and demonstrate how the best practice (BCT/ILP, 2018) guidance has been implemented. This will include details such as 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: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies DE1, DE3, NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Implementation of bicycle and refuse storage:

Prior to the first occupation of any dwellings unit(s) hereby approved, the bicycle and refuse storage facilities shown on the approved plans that relate to that dwelling(s) shall be provided and made available for use for those dwellings. Once provided, storage arrangements shall be retained and maintained for the life of the development.

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

Car parking management plan:

Prior to the occupation of the development hereby approved, a Car Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of car parking allocation including details of staff and visitor parking. The approved car parking management plan shall be adhered to for the lifetime of the development.

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

Manoeuvring provision:

Prior to the first use of the hotel development hereby approved, the coach manoeuvring area detailed on the plan reference 04299-TR—125-PO received 4 June 2021 shall have been provided, and thereafter permanently retained for the life of the development.

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

Electric Charging Points:

Prior to the first occupation of the residential development hereby permitted details of electric vehicle charging points (EVCPs) shall be submitted and agreed in writing by the Local Planning Authority. The EVCPs shall be provided in accordance with the approved details prior to first occupation and retained thereafter.

Reason: In the interests of carbon reduction and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan 2012-2030.

No plant on roof:

No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, tanks, satellite dishes and external lighting.

Reason: In the interests of the visual amenities of the area, in accordance with policies DE1, DE3 and SS10 of the Torbay Local Plan (2012-2030).

Surface Water Drainage Scheme:

Prior to the first use of the development the submitted and approved surface water drainage system shall have been implemented in full. The drainage scheme shall be fully implemented prior to the first use of the development and the drainage system shall then be retained and maintained at all times thereafter to serve the development.

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

Removal of permitted development - dwellings

Notwithstanding the provisions of Classes A to F of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) (England) 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, or hardstanding provided, 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.

Removal of Permitted Development Rights – means of enclosure

Notwithstanding the provisions of Class A of Part 2 to Schedule 2 of the Town and Country Planning (General Permitted Development)(England) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no means of enclosure shall be erected other than those approved pursuant to this planning permission 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.

Landscaping Plan:

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

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

Footpath:

Prior to the first use of the development, the permissive footpath shown on plan number BD 0253 SD 804 R04 shall be provided. It shall be retained and maintained as a public access route for the life of the development.

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

Informative(s)

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

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

3. Responsibilities of the applicant / developer:

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

Relevant Policies

Local Plan

Policy TO1 Tourism, Events and Culture
Policy TO2 Change of Use of Tourism Accommodation and Facilities
Policy TO3 Marine Economy
Policy SS1 Growth Strategy for a prosperous Torbay
Policy SS2 Future Growth Areas
Policy SS3 Presumption in Favour of Sustainable Development
Policy SS4 The Economy and Employment
Policy SS8 Natural Environment
Policy SS9 Green Infrastructure
Policy SS10 Conservation and the Historic Environment
Policy SS11 Sustainable Communities
Policy SS12 Housing
Policy TC5 Evening Economy
Policy TA1 Transport and Accessibility
Policy TA2 Development Accessibility
Policy TA3 Parking Requirements
Policy C2 The Coastal Landscape
Policy C3 Coastal Change Management
Policy C4 Trees, Hedgerows and Natural Landscape Features
Policy NC1 Biodiversity
Policy H1 New Homes

Policy DE1 Design
Policy DE3 Development Amenity
Policy DE4 Building Heights
Policy ER1 Flood Risk
Policy ER2 Water Management
Policy SDT1 Torquay
Policy SDT2 Torquay Town Centre and Harbour

Torquay Neighbourhood Plan 2019

TS1 Sustainable Development
TS3 Community led planning
TS4 Brownfield Development
TH2 Designing Out Crime
TH5 Sustainable Later Life Homes
TH8 Established Architecture
TH9 Parking Facilities
TH10 Protection of the Built Environment
TT1 Change of Use within a CTIA
TT2 Change of Use in Conservation Areas
TE1 Tourism Accommodation on Brownfield Sites
TE5 Protected Species Habitats and Biodiversity
TE7 Marine Management Planning
THW1 Travel Plans
THW4 Outside Space Provision
THW5 Access to Sustainable Transport
THW6 Cycle Storage and Changing Facilities

TORBAY COUNCIL

Application Site Address	Coach Station, Lymington Road, Torquay
Proposal	Demolition of existing coach station building, café and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) & E(c). Erection of public toilets, 3 new coach bays and associated public realm (description amended 10.09.2021)
Application Number	<u>P/2021/0765</u>
Applicant	Torbay Council
Agent	MTA Chartered Architects Ltd
Date Application Valid	02.08.2021
Decision Due date	27.09.2021
Extension of Time Date	08.11.2021
Recommendation	That Planning Permission is granted, subject to the conditions detailed below and final consultation response from the Environment Agency confirming no objection. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Divisional Director - Planning, Housing & Climate Emergency
Reason for Referral to Planning Committee	Application made by Torbay Council
Planning Case Officer	Jim Blackwell

Location Plan



Recommendation

Approval.

Statutory Determination Period

27th September. Extension of time agreed until 8th November 2021.

Site Details

The site is located within the Coach Station, Lymington Road within the Upton area, north of Torquay town centre. It is currently occupied by a large surface area car park dissected by a vehicle route running north south connecting Lymington Road with Upton Road. A roundabout lies to the east which connects Lymington Road, running broadly north to south, with Upton Hill further to the east.

The western side is occupied by angled coach parking and car parking. Beyond the boundary there is an upward change in level with a tree lined landscape strip separating the site from a variety of two and three storey houses on Upton Road.

The eastern portion of the site is occupied by the existing Coach Station toilets, café and office block. This is a single storey structure in two bays with a canopy projecting into the site. Several timber planters and a bank of cycle parking hoops are located around the building.

Further south is the Torbay Innovation Centre, a relatively modern, two storey, flat roof building. The range of buildings is separated from Lymington Road by the footway and line of mature trees. To the south lie further car and coach parking spaces and a collection of public recycling bins at the junction with Upton Road.

A sewer pipe position run north south under the site. South West Water create constraint zones which have informed the proposed buildings positions.

It also lies within:

- Flood Zone 3
- Community Investment Area – Zone 1
- North of the Upton Conservation Area

Description of Development

The application is for the demolition of the existing single storey coach station building, café and toilet block. The replacement buildings and structures include:

- 5 new commercial light industrial units (Use Classes E(g) & E(c)).
- The units will be two storeys orientated at 45° to the site positioned along the east boundary. The northern unit will face broadly north to south.
- Electric vehicle charging points will be provided within each building.
- Cycle storage will be provided within the units.
- A pair of mobility WCs at the entrance to the site to the north.
- A vehicle access route inside the site to service the proposed buildings.
- Pedestrian crossing points at each end of the new route.
- The removal of the existing four coach parking bays and formation of a central island running north south creating three coach parking bays with high quality public realm, shelters and passenger information.

To clarify the proposed use, class E (c) and G (g) include:

E(c) Provision of:

- E(c)(i) Financial services,
- E(c)(ii) Professional services (other than health or medical services), or
- E(c)(iii) Other appropriate services in a commercial, business or service locality.

E(g) Uses which can be carried out in a residential area without detriment to its amenity:

- E(g)(i) Offices to carry out any operational or administrative functions,
- E(g)(ii) Research and development of products or processes,
- E(g)(iii) Industrial processes.

Amendments and additional information submitted during the application include:

- The description of development was altered to refine the proposal and remove the reference to office to reflect the future occupant's light industrial uses.
- Updated Transport Assessment.
- Swept path survey drawing.
- Amended layout to show cycle storage within the units.
- Noise Assessment.
- EMES and CEcoMP.

Pre-Application Enquiry DE/2021/0002 – advice provided by case officer on a variety of issues around the design of the scheme, public realm, access and movement.

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 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:

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a conservation area or its setting, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Relevant Planning History

- P/2010/0661: Formation of three storey education, training and employment facility to include cafe with training kitchen, workshops, lettable workspace, fitness centre with changing facilities, urban roof garden, WC's and landscaped public realm – approved.
- P/2006/0156: Two Storey Managed Workspace Facilities with parking And Associated Landscaping – approved.

Summary of Representations

Three objections have been received. A summary of the main points of objection are as follows:

- Impact on local area.
- Noise.
- Not in keeping with local area.
- Over development.
- Traffic and access.
- Impact on trees and wildlife.
- Loss of light.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No response received.

County Archaeologist and Historic Environment Manager:

The HER does not record any known sites that would be impacted on by the development. It does not appear to have any significant archaeological potential. Therefore, I do not have any archaeological recommendations to make.

County Ecologist:

No objection subject to conditions.

Strategic Transport:

Based upon the information submitted at the time of writing, the Highway Authority are unable to provide a positive recommendation for the proposed development. The applicant will be required to submit the following information:

- Provide an analysis of the PIC data when this has been obtained;
- Provide information relating to the likely number of employees and shift changes at the site and demonstrate that the adjacent car park can accommodate the car parking requirements of the site;
- Provide the quantum and location of proposed electric vehicle charging points;
- Demonstrate that three coach loading bays offer sufficient capacity for current and forecast coach usage;
- Demonstrate the safe operation of the coach bays, in particular the potential for conflict between reversing coaches and pedestrians / private vehicles in the car park;
- Consider the implementation of public realm or highway improvements for waiting and disembarking passengers;
- Re-provision of public disabled parking lost through the relocated coach loading bays;
- Re-provision of disabled parking for the Torquay Innovation Centres;
- Demonstrating engagement with and support from coach operators;
- Provide the quantum and location of proposed cycle parking; and
- Undertake a comparative net trip generation assessment utilising the TRICS database.
- The applicant is also required to provide a proportionate Framework Travel Plan for the employment uses to support the application.

Following the submission of amended and updated plans/information comments were set out below:

Based upon the information received at the time of writing, the Local Highway Authority cannot make a recommendation regarding the development proposals at this time. The applicant will be required to submit the following information:

- Identify pedestrian routes through the site to ensure there will be no conflict between pedestrian and vehicle movements;
- Identify on a proposed site plan the location and quantum of cycle parking that will be provided for the proposed development, in accordance with the requirements set out in the Torbay Local Plan (2012 – 2030) Appendix F; and
- Update the Framework Travel Plan to include an existing mode travel share using data from the 2011 Census and to include an Action Plan with feasible measures aimed at effectuating a 30% modal share shift towards sustainable travel.

The applicant responded by providing additional information to resolve the above issues. The Strategic Transport Team responded as follows:

- Pedestrian movements through the site. The applicant has submitted a plan which has identified pedestrian routes through the site (ref. 3486.ENG.TA03). This is considered acceptable.
- Cycle parking. The applicant has stated that the cycle parking standards contained in the Torbay Local Plan (2012 – 2030) Appendix F will be adhered to which will provide one cycle space per two employees for each of the two units. The applicant has stated that cycle parking will be provided, in a secure and covered location, in each of the units. This is considered acceptable.
- Framework travel plan. The applicant has provided an updated Framework Travel Plan which includes a baseline mode share data analysis obtained from the 2011 Census, as well as an Action Plan comprising of feasible measures that can be implemented to achieve a 30% shift towards sustainable travel modes. This is considered acceptable.
- Coach bay capacity. Since the previous Torbay Council Transport Planning response was issued (12th October 2021) consultation has been obtained from the Confederation of Passenger Transport (CPT) who have stated that: “We would oppose any reduction in coach parking/pick up/setting down capacity” (email dated 17/09/2021 and received 13/10/2021).

A further consultation has also since been received from the Torbay Council Spatial Planning team who have stated that: “Please note that both the CPT and I are opposed to any reduction in the number of Coach Bays at this site”

“Please note that Government has recently published the National Bus Strategy, ‘Bus Back Better’.

This strategy applies to England and sets out a vision for improving bus services nationally. The strategy clearly states Protection of Bus Stations from closure and redevelopment and improved and well maintained. The reduction in Coach spaces at this site will go against Torbay Council’s Bus Service Improvement Plan (BSIP)” (email dated 13/10/2021).

It should be noted that, at the time of writing, no response has been received from Bus and Coach operators regarding the proposed development.

Conclusion

The applicant has provided all information required by the Local Highway Authority and this is considered acceptable. However, following consultation now received externally from CPT and the Torbay Council Spatial Planning team, it is considered that the reduction of the coach drop off / pickup spaces from four to three is not acceptable and is therefore not supported by Torbay Council. The proposed development, in its current form, goes against the policies outlined within the Torbay Council Bus Service Improvement Plan (BSIP) as well as the National Bus Back Better Strategy. Considering the information received from CPT and Torbay Council Spatial Planning, the Local Highway Authority recommends refusal for the proposed development.

Fire Safety Officer:

This proposal must comply with Approved Document B of the Building regulations, to include access requirements for the Fire Service vehicles (B5). These include Vehicle Access, including minimum road widths, turning facilities for fire service vehicles and a maximum reversing distance of 20 metres.

In addition, the provision of appropriate water supplies for firefighting (street hydrants) including appropriate flow rates must be complied with. Information on this should be sourced from National guidance document on the provision of water for firefighting (3rd edition; Jan 2007)

Devon and Cornwall Police – Designing out crime officer:

Due to the way in which many industrial developments evolve from inception to completion and the fact that in many instances, the intended occupier and the nature of their business is unknown, even beyond completion, it is not possible to comment in any greater detail than the minimum recommended standards.

With this in mind and the knowledge that commercial units can be vulnerable to burglary, theft and unwanted trespass, it is therefore recommended consideration be given to constructing the units to achieve Secured by Design (SBD) compliance in line with SBD Commercial 2015. Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Crime Prevention through Environmental Design, (CPTeD), as follows, in conjunction with appropriate physical security measures.

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 managed to prevent the creation of problem areas which can attract criminal activity and the antisocial to gather.

Ownership: Places that promote a sense of ownership, respect and territorial responsibility

Physical protection: Places that include necessary, well-designed security features.

Activity: Places where the level of human activity is appropriate to the location and creates a reduced risk 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 and ASB.

In general, the proposed buildings appear to follow a simple design where recesses and concealed areas are minimised, a good design feature in increasing surveillance opportunities.

It is recommended roller shutter doors providing access for deliveries and other apertures where no other door is present must be certificated to a minimum of LPS 1175 Issue 8, Security Rating 3 and any roof light aperture be protected by roof lights certificated to LPS 1175: Issue 8, Security Rating 1 or above. Doors and windows should be to PAS 24:2016 as a minimum.

Whilst it is recommended CCTV be included as part of the initial build process, it should not be seen as a universal solution to security problems. It can help deter vandalism or burglary and assist with the identification of offenders once a crime has been committed, but unless it is monitored continuously and appropriately recorded, CCTV will be of limited value in relation to the personal security of staff and visitors. That being said, the provision and effective use of CCTV fits well within the overall framework of security management and is most effective when it forms part of an overall security plan. It is recommended an appropriate monitored CCTV and alarm system is installed as part of the overall security package for each unit with any lighting for the site compatible with the CCTV system. Care needs to be taken with regard to planting/landscaping, where applicable, so as to not create hiding places, areas of concealment for vehicle interference or impede surveillance opportunities.

External illumination when the buildings are unoccupied is recommended for entrance doors and observable building elevations and be compatible with any CCTV system installed.

Senior Tree and Landscape Officer:

I have reviewed the TPP (21.3279.1.TPP), TAP (21.3279.2.TAP) and AA (21.3279.1.AA).

The documents show that significant root ingress into the site is unlikely based on the trial pits excavated. The excavation points were chosen owing to complications in navigating underground services.

On balance the report findings are likely to be replicated in other areas along the eastern edge of the development. However there still does remain the possibility for root ingress into the area or as indicated access facilitation pruning to manage the canopy of the trees should the proposal extend beyond 6m in height.

Access facilitation pruning may need to be undertaken to ensure the development works can be carried out without damage to the canopy of the trees.

The following are recommended

- Compliance condition for the TPP
- Pre-commencement AMS for the project including (but not exclusive to) protection of trees during demolition, pre-commencement site meeting, supervision throughout the build, signing on of contractors to method statement.
- Access facilitation pruning may need to be undertaken to ensure the development works can be carried out without damage to the canopy of the trees.

Environment Agency:

Whilst we have no in principle objection to the proposed development, we recommend that this application is not determined until such time that clarification is provided regarding the proposed raised pavements. The reason for this position and advice is provided below.

Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

Reason

Flood Risk

The application site lies partly in Flood Zone 3 and entirely within Flood Zone 2 as identified as areas at High and Medium Risk of flooding respectively. The area is also at risk from surface water flooding as detailed within the submitted flood risk assessment (FRA). The measures outlined within the FRA help safeguard occupants of the proposed building from flood waters, reduce the probability of internal flooding of the proposed buildings, and to provide adequate floodplain compensation. The FRA also outlines the inclusion of voids in the proposed development. We see this provision to be essential in order to avoid a potential increase in flood depth of 77mm, which would affect residential property. Notwithstanding the above, the submitted drawing 3844.P.AL.02 A1 dated 2021 shows potential proposals to create raised pavement areas to create new coach bays. The creation of bays through raising the pavements would occupy flood storage and increase the risk of flooding to residential property in certain circumstances, contrary to National Planning Policy. The applicant should therefore provide further clarity on this matter and it be fully considered within the FRA where required.

Contaminated Land

The site is a former bus depot, which indicates the potential for contaminated land to be present. The application demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however, be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for your authority. If the applicant can provide further information to resolve our concerns relating to the pavements, we advise that we would seek to recommend conditions on any subsequent permission granted relating to a remediation strategy, unsuspected contamination and piling.

Advice –The application proposes ‘New Public Mobility Toilets’ and we wish to highlight that this element of the proposal would be at risk of flooding to a depth of approximately 1m in

1% AEP (including climate change) occurrences, and be at risk of flooding in more frequent floods to possibly dangerous levels. We would strongly recommend that this element be relocated to an area that is safe from the risks posed by flooding.

Overcoming our objection

The applicant should submit further information relating to the proposed raised pavements in the context of flood risk posed to and from the development, and which covers the deficiencies outlined in this letter. Please re-consult us on any revised information submitted.

South West Water:

South West Water has no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy subject to details of surface water drainage being submitted for prior approval.

I further confirm that the proposal to attenuate surface water flows to 1.5 l/s discharging to the combined public sewer network has been agreed with South West Water.

Torbay Council Community Safety Team:

No objection.

Waste Client Manager:

No objection.

Planning Officer Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

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

1. Principle of Development

Policy SS11 of the Local Plan notes that within Community Investment Area, proposals that lead to the improvement of social, economic or environmental conditions will be supported in principle.

Similarly, Policy SS5 states that the provision of new employment space will be supported as part of urban renewal projects, but does note that out of centre town centre uses will be considered based on policies TC1-TC4. Such policies states that all town centre uses should follow a town centre first approach.

Policies TC1 states that employment and housing provision, within and near to town centres, particularly within peripheral parts of the designated town centre not covered by primary or secondary shopping frontage.

There are clear economic benefits set out in support of the application. Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan supports urban regeneration which creates sustainable living, working and leisure environments, supported by high quality infrastructure.

Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan also supports existing businesses; it encourages new businesses and investment into the area to create new jobs; and it promotes the expansion and diversification of the economy of the Bay.

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

One of the key aims of the Torbay Economic Strategy is to create more full time and sustainable employment by encouraging the growth of existing business and the creation of new employment space. In order to achieve this, the right land, buildings and infrastructure need to be in place to support business growth. The Councils Economic Plan, *respond, recover, reposition* sets out a future strategy for Covid 19. There are key objectives around the acceleration of local economic recovery and developing a more resilient economy. The Torquay Town Deal Investment Plan supports town centre regeneration, unlock employment space to help business expansion and support inward investment and through embedding inclusive economy principles to tackle inequality, exclusion and poverty. This proposed development is a key project within the Investment Plan.

The economic benefits are clearly set out within the submitted information and include the following:

- create 38 direct FTE jobs,
- create 7.6 indirect jobs,
- generate approximately £2.5m GVA per year in the local economy,
- create 29.6 construction jobs,
- contribute £7.8m to the local construction sector.

The application also demonstrates wider benefits to the area as the coach station forms a key arrival point into the Bay by sustainable modes. The access route and improvements to the coach bays, with improved public realm and shelters will give a positive first impression to the area. The new mobility WCs will mean this important facility will be retained for public use.

Given that the proposal would create much needed employment facilities at the site; create new jobs; and is expected to generate significant financial contribution to the local economy; improve the positive arrival into the Bay by public transport; it is considered that it complies with the aspirations of Policies SS1, SS4 and SS11 of the Torbay Local Plan.

2. Design and visual impact

Paragraph 126 of the NPPF (2021) 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 decisions should ensure

developments 'function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development'. It goes on to say that developments should 'optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks'.

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

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

Policy DE4 states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. New development should be constructed to the prevailing height within the character area in which it is located unless there are sound urban design or socio-economic benefits to justify a deviation from this approach.

The proposed units would be similar at two storeys in height to the Torbay Innovation Centre to the south. In the context of the immediate neighbouring properties and the wider area, it is clear the prevailing building height is varied and is characterised by a variety of building heights located at a range of different ground levels. The proposal is therefore not considered to be contrary to Policy DE4, or harmful to the local character. In any case, it was considered that the proposed building would meet the criteria listed previously in terms of enhancing the vitality of the area, providing socio-economic benefits and contributing to the regeneration of Torbay.

The physical constraints of the site do present several challenges, not least it's prominent position on the junction between Lymington Road and Upton Hill, multiple public frontages and potential to accommodate a range of uses which may change over time. The scheme evolved following the established pre-application process and addressed the issues raised. Lymington Road now has legible points of access, and the proposed windows show activity at the ground floor on each elevation. The design and massing of the buildings now integrate into the existing site and the proposed design responds to the potential user requirements. The proposed use of mono pitched roofs rather than a flat roof, as on the Innovation Centre, would reduce the bulk of the proposed units and echo something of the rhythm created by the terraced properties opposite. The materials would broadly also match, although natural stone cladding is proposed on the ground floor, rather than render. Quality, robust materials have also been included within the proposed public realm, coach bays, shelters and the mobility WCs.

There has been an objection from a neighbouring resident around overdevelopment. However, a previous planning application for a three storey building was approved. Although outside the current Development Plan period it is considered that a site of this size and location has the capabilities of containing units of this scale.

Subject to the use of conditions to secure further quality design detailing, it is considered that the form and layout of the scheme makes effective use of the land and responds well to the constraints of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form respond effectively to the site. The proposal is therefore considered acceptable and without

detriment to the character and appearance of the locality or street scene. The proposal is therefore considered to be in accordance with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

3. Impact on heritage assets

NPPF (2021) provides guidance as to 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 (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 199). 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 (Paragraph 200). 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 (Paragraph 202).

In terms of the Local Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan). This is aligned with the duties for decisions as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The design, proximity of the site to the Upton Conservation Area and its prominent corner location are key considerations. The scheme is only considered in terms of how it may affect the setting of the Upton Conservation Area which lies to the south of the site. There are no listed buildings near the site. No's 117 – 159 Lymington Road opposite the site are noted as Important building groups, normally of similar date, or character of frontage detail.

The matter is dealt with in the submitted Design and Access Statement. It is considered that, given the distance from the proposal site, that there would be a minimal impact on the setting of the conservation area and the identified terraced building group. The Torbay Innovation Centre and wider open car park have established the urban form with modern buildings with large mature trees to the boundary. The proposed two storey units, separated from Lymington Road by the retained trees are considered acceptable. It is worth noting that the Conservation Area Appraisal references the many individual trees and tree groups which act as an important foil to the buildings, and those which make an important contribution to the street scene in Lymington Road.

The County Archaeologist does not require any archaeological recommendations. The HER does not record any known sites that would be impacted on by the development and it does not appear to have any significant archaeological potential.

The proposal is considered to enhance the setting of the Upton Conservation Area. In accordance with Local Plan Policy SS10 and Policy TH10 of the Torquay Neighbourhood Plan.

4. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. Paragraph 174 of the NPPF seeks to prevent new development from being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution.

The proposed units are separated from existing residential dwellings by existing mature trees, the existing car park and Lymington Road. Due to the separation distances involved, along with the scale and design of the proposals, it is considered that there would not be any unacceptable harm to residential amenity in terms of access to natural light, privacy, or outlook.

A Noise Impact Assessment has been submitted with the application which found that the likelihood of adverse impact due to vehicle activity and plant to be low. The end users of the units have not yet been determined. As such, the proposal would result in an intensification of the use of the site, with both day-time and potentially night-time operations, which could result in harm to local and residential amenity in terms of traffic and other noise, along with light nuisance. No objections have been raised by Environmental Health Officers. However, it is considered by Officers to limit the impact upon neighbouring occupiers by including a delivery hours condition to restrict deliveries, and any loading or unloading of vehicles in connection with the units. Conditions are also included to secure a construction method statement and the details of external lighting, to ensure acceptable effects in terms of amenity during the construction phase.

Furthermore, the proposed Class E use has also been controlled by condition to ensure the development remains within this defined use. It is important to note that the final operators can only be carried out in a residential area such as this without detriment to its amenity. This provides a positive level of control to ensure the units will not generate an unacceptable level of harm.

Subject to the use of the aforementioned conditions, the proposal is considered acceptable on amenity grounds and compliant with Policy DE3 of the Torbay Local Plan and relevant guidance within the NPPF.

5. Impact on Highway Safety

Policies TA2 (Development Access) states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 (Parking Requirements) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per guestroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

Policy TH9 of the Torquay Neighbourhood Plan states that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel. Policies THW1 (Travel Plans), THW5 (Access to Sustainable Transport), THW6 (Cycle Storage and changing facilities), and TTR2 (Sustainable Communities) are also of relevance.

The Strategic Transport Team requested a wide range of additional information which has now been provided by the applicant. The following are now considered acceptable.

- Pedestrian movement.

- Secure cycle parking.
- Travel Plan.
- Disabled parking.
- Electric Vehicle Charging Points.

An objection was received regarding the impact of traffic and access. Given the range of additional information submitted and the acceptability from the Strategic Transport Team it is considered that the scheme would not impact neighbouring residents.

The final issue relates to the reduction of the existing coach parking bays from four to three. The consultation received from the Strategic Transport Team recommends refusal for the proposed development based on this loss. However, when taking the scheme as a whole, including the economic value and quality of the new units, improved public realm, improved coach and pedestrian access and proposed facilities such as new accessible WCs, shelters and new wayfinding board with bus timetables, it provides an overall public benefit. These are all considered important for the future growth of Torbay as a premier tourist destination and on balance Officers are satisfied with the scheme when taken as a whole.

The proposal is therefore considered acceptable and meets the requirements of Policy TA1, TA2 and TA3, TH9 of the Torquay Neighbourhood Plan and the NPPF (2021).

6. Designing out Crime

No objections are raised subject to the use of a condition to secure a scheme of crime prevention measures, such as CCTV. It is recommended that this condition be imposed should planning permission be granted. Subject to the use of this condition, the proposal is in accordance with Policy SS11 of the Local Plan.

7. Ecology and Biodiversity

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. Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features.

The Devon County Council Ecologist has no objection. The submitted Ecology Report is considered an appropriate and proportionate assessment on the suitability of the site for protected species. Conditions have been included to ensure that no works take place unless a suitably qualified ecologist is present on site and details of numbers, location and design of biodiversity enhancement features including bat boxes, bird boxes and bee bricks are provided in a CEMP and submitted prior to construction works commencing.

The Senior Tree and landscape Officer has no objection subject to conditions to secure a scheme of tree protection. There has been an objection on the potential impact on the existing trees. However, given the trees to be retained, the positive comments from the Senior Tree and Landscape Officer and the suggested condition ensuring the trees are protected, the scheme is considered acceptable.

Subject to the addition of suitable conditions the proposal is therefore deemed to comply with Policies NC1 and C4 of the Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the NPPF (2021).

8. Drainage and Flood Risk

National guidance contained within the NPPF (2021) cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 166).

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere, which is aligned with guidance contained within the NPPF. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers.

The application site lies partly in Flood Zone 3 and entirely within Flood Zone 2 as identified as areas at High and Medium Risk of flooding respectively. It is also within a Critical Drainage Area as designated by the Environment Agency. As such, a sequential test is required as set out in section 161 of the NPPF; its aim is to steer new development to areas at low risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

In this instance the site is already developed, previously used as a coach station and car park. These uses and the proposed industrial use with coach parking fall within the same flood risk category of 'less vulnerable'. The site is currently vacant and attracts antisocial behaviour; its redevelopment is in the public interest and the same development on an alternative site outside of the flood zone would not provide these benefits. The development therefore passes the sequential test.

It is necessary then to consider the exception test; it is concluded that the development provides wider sustainability benefits to the community that outweigh the flood risk through the provision of employment, visual and physical improvements to the site and the enhancement of public transport infrastructure. It is also concluded that the development will be safe for its lifetime taking into account the vulnerability of its users and without increasing flood risk elsewhere.

The Environment Agency have no objection in principle to the proposed development but required further information on the site levels. This information has been provided and the Environment Agency consulted. In order to reflect this a further condition has been included to update the Flood Risk Assessment. This will be reported verbally to Members at Planning Committee.

As the site is a former bus depot it indicates the potential for contaminated land to be present. The submitted information demonstrates that it will be possible to manage the risks posed to controlled waters by this development. The Environment Agency has requested a condition requiring a remediation strategy, unsuspected contamination and piling. This has also been included as a condition. Finally, the new accessible WCs were considered to be at risk of flooding to a depth of approximately 1m in 1% AEP (including climate change) occurrences, and be at risk of flooding in more frequent floods to possibly dangerous levels. Given the constraints of the site and the potential use of the WCs during these conditions they have been retained as originally proposed.

South West Water also has no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy subject to details of surface water drainage being submitted for prior approval.

Subject to no objection from the Environment Agency and the conditions discussed above the proposal is therefore considered to be in accordance with Policies ER1 and ER2 of the Local Plan.

9. Low Carbon Development

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

The effects on the environment and sustainability have been considered as an integral part of this scheme. Replacing buildings have significant energy, carbon and financial cost implications. However, given the age, condition and usability of the existing building it is accepted that it cannot be adapted or retained.

The application is supported by a Sustainability Statement which highlights the following considerations:

- The site is supported by public transport and is accessible from the town centre. Lymington Road is considered a primary public transport route into Torquay and is served by Stagecoach bus numbers 12, 22 and 31.
- Secure cycle storage will be provided within the units.
- The palette of materials has been chosen on their sustainability credentials on sourcing, reusability and recycling.
- New users will be responsible for the final fit out of the units based on their needs. A range of technologies will be available for heating, lighting and power.
- The units will have high levels of insulation.
- The units are oriented with glazed elements facing east-west maximising natural light and reliance on electric lighting. Each roof is pitched towards the south to maximise natural heat gain though with the vaulted space beneath the highest part to allow heat to rise above the normal working height at the mezzanine level and provide greater comfort.

This design approach to the site is therefore in accordance with Local Plan Policies SS3 and ES1.

Local Finance Considerations

Community Infrastructure Levy

The site is situated in Charging Zone 2 in the Council's CIL Charging Schedule and as such there is no charge.

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

In view of the nature of the application there is not likely to be a Significant Effect on the Annex I habitats - alone or in-combination with other proposals or projects.

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 employment facilities would produce a significantly positive impact overall and help with the local economy.

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 proposal is acceptable in principle as it would have a positive impact on the character of the area, the setting of the Conservation Area and local amenity; would provide acceptable arrangement in relation to residential amenity, highways and flood risk. Furthermore, when taking the scheme as a whole, including the economic value and quality of the new units, improved public realm, improved coach and pedestrian access and proposed facilities such as new accessible WCs, shelters and new wayfinding board with bus timetables, it provides an overall public benefit outweighing the loss of a single coach parking bay. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

The proposals are in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval subject to the following conditions:

Conditions

Class E consent:

The industrial units hereby approved shall be used only for purposes falling within Use Class E (c) and (g) of The Town and Country Planning (Use Classes) Order, 1987 (as amended) or in any provisions equivalent to those Classes in any Statutory Instrument revoking and re-enacting that Order and for no other purpose without the prior grant of planning permission.

Reason: To ensure that the development is compatible with surrounding uses. In order to accord with Policies TC2, TC3 and TC4 of the Torbay Local Plan 2012-2030.

Land affected by contamination - Submission of Remediation Scheme:

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Land affected by contamination - Implementation of Approved Remediation Scheme:

In the event that contamination is found, no development other than that required to be carried out as part of an approved scheme of remediation shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and be approved in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination both during the construction phase and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

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

Flood Risk Assessment:

The development shall proceed in full accordance with the submitted and approved Flood Risk Assessment. The use shall thereafter be operated in accordance with the approved details.

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

Surface Water Drainage Scheme:

Prior to the first use of the development the submitted and approved surface water drainage system shall have been implemented in full. The drainage scheme shall be fully implemented prior to the first use of the development and 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 to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Construction/Demolition Management Plan

No development shall take place until a site specific Construction/Demolition Management Plan has been submitted to and been approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise and 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: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies NC1 and TA1 Torbay Local Plan 2012-2030.

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

Ecology Mitigation Measures:

The development shall proceed in full accordance with the submitted and approved Ecological Mitigation and Enhancement Strategy (EMES) and combined Construction and Ecological Management Plan (CEcoMP) by Ecology Services SW – September 2021).

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Ecological Mitigation Measures:

Prior to the first use of the development hereby approved, the following shall be incorporated into the development (in accordance with manufacturer's instructions for correct siting and installation) and retained at all times thereafter:

- The provision of integrated habitat by design for swifts (*Apus apus*), in the form of nesting bricks built within the outer wall brickwork or fabric of the buildings. Two bricks to be incorporated per unit build.
- The inclusion of bee bricks within the upper story outer walls of the buildings. Two bricks to be incorporated per unit build.
- The inclusion of bat bricks/tubes. Two bricks to be incorporated per unit build.

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

Landscaping scheme:

Prior to the first occupation of the development hereby permitted full details of all proposed soft and hard landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All approved hard landscaping shall be implemented in full prior to the first use, all soft landscaping shall be carried out in the first planting and seeding season following the occupation of the development.

Reason: In the interests of visual character of the area in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030.

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

Detailed design:

Prior to installation details of all external materials shall be submitted to and approved in writing by the Local Planning Authority including, but not limited to:

1. A sample of the proposed stone,
2. Window and door materials, colours and profiles,
3. The wayfinding and coach information sign board,
4. Coach station shelters.

The development shall proceed in full accordance with the approved detail and shall be retained as such for the lifetime of the development.

Reason: In order to protect visual character and heritage assets in accordance with Policies DE1, SS10 and DE4 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

External Lighting:

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

Reason: In order to protect visual character in accordance with Policies C2, DE1, HE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan and advice contained within the NPPF.

Designing Out Crime:

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

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

Bicycle Storage:

Prior to the first occupation of the development hereby permitted, the bicycle storage shown on the approved plans (plan reference 3844.P.AL.02 rev A received 11 October 2021) shall be provided. Once provided, the agreed bicycle storage shall be retained for the life of the development.

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

Hours of delivery:

No deliveries shall be taken at or dispatched from the site outside the following times: 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.

Reason:

To satisfactorily protect the residential amenities of nearby occupiers to comply with policy DE3 of the Torbay Local Plan.

Additional paraphernalia:

No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, tanks, satellite dishes and external lighting.

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

Removal of permitted development – extensions:

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class H and Class J, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking that Order, no extensions or alterations, including additional hard standings, shall be made to the building hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policies DE1, DE3, TA3 and ER1 of the Torbay Local Plan 2012-2030, the Torquay Neighbourhood Plan, and the NPPF.

Coach parking bays:

Prior to the first occupation of the development hereby permitted, the coach parking bays and shelters shown on the approved plans shall be provided. Once provided, the agreed bays shall be retained for the life of the development and made available for use for coach parking.

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

Informative(s)

1. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
2. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.
3. Responsibilities of the applicant / developer:
All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding

season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

Relevant Policies

Local Plan

DE1 – Design.

DE3 – Development Amenity.

ES1 - Energy

TA2 – Development Access.

TA3 – Parking Requirements.

ER1 – Flood Risk.

ER2 – Water Management.

NC1 – Biodiversity and Geodiversity.

SS3 – Presumption in favour of Sustainable Development.

SS4 – The Economy and Employment.

SS10 – Conservation and the Historic Environment.

SS11 – Sustainable Communities.

SS14 - Low carbon development and adaptation to climate change

C4 – Trees, hedgerows and natural landscape features.

Torquay Neighbourhood Plan

TH8 – Established Architecture.

TH9 – Parking Facilities.

THW5 – Access to sustainable transport.

TE5 – Protected species habitats and biodiversity.

TH10 – Protection of the Historic Built Environment.

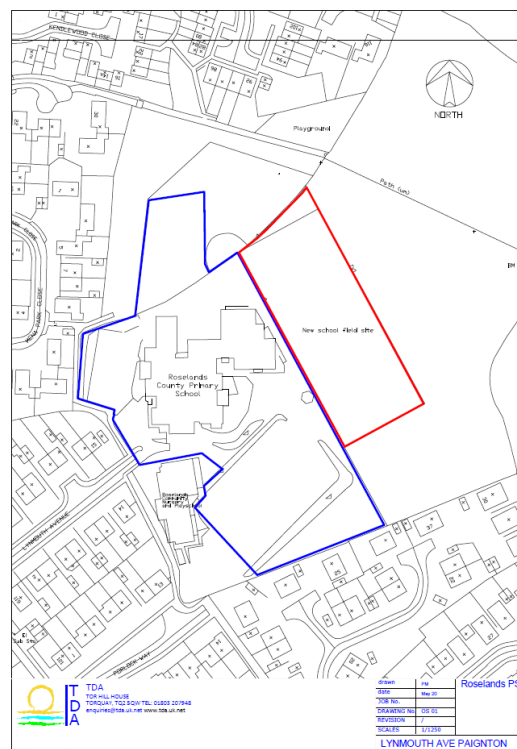
TS1 – Sustainable Development.

TS4 – Support for Brownfield and Greenfield development.

TORBAY COUNCIL

Application Site Address	Land Adjacent To Roselands County Primary School Lynmouth Avenue Paignton TQ4 7RQ
Proposal	Change of use from green space to a fenced play area for use by Roselands County Primary School.
Application Number	P/2021/0208
Applicant	Torbay Council
Agent	Mr Richard Sutton – Torbay Development Agency
Date Application Valid	22/04/2021
Decision Due date	17/06/2021
Extension of Time Date	12/11/2021
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director responsible for Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from neighbours, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Emily Elliott

Location Plan:



Site Details

The site forms part of an area of open land within Clennon Valley, Paignton and is approximately 4,851 square metres and is currently semi-improved neutral grassland and hedgerow. The site is within the Clennon Hill/Roselands Valley Urban Landscape Protection Area and is within an 'Other Site of Wildlife Interest'.

Description of Development

The proposal seeks permission for a change of use to a parcel of land within Clennon Valley to be used as a grassed play and educational area for Roselands County Primary School. The site would be enclosed by a 2 metre high green weldmesh fence and two pedestrian access points into the site, as well as a 3 metre wide double gate for vehicular access.

Pre-Application Enquiry

None sought.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

No relevant planning history relating to the site.

Summary of Representations

The application was publicised through a site notice and neighbour notification letters. Approximately 12 letters of objection have been received.

Concerns raised include:

- Impact on local area
- Sets precedent

- Trees and wildlife
- Not in keeping with the local area
- Overdevelopment
- Residential amenity
- Traffic and access -> This matter is not a relevant material planning consideration to this application as the proposal does not increase staff or pupil numbers, nor does it impact the existing vehicular movements or access.

Summary of Consultation Responses

Paignton Neighbourhood Forum:

No response received.

Torbay Council's Highways Engineer:

No response required.

Torbay Council's Drainage Engineer:

I can confirm that as this development is located in Flood Zone 1 and the planning application relates only to the erection of fencing that will not increase the impermeable area of the site, I have no objections on drainage grounds to planning permission being granted.

Torbay Council's Senior Tree and Landscape Officer:

Please ensure that a method statement for the installation of the fence is submitted - this would preferably be pre-commencement so that that it is agreeable to ourselves.

Torbay Council's Senior Strategy and Project Planning Officer:

I refer to the above consultation to incorporate an area of public open space into Roselands Primary school. I was involved with the TDA at pre-application stage, as the proposal is part of wider measures needed to increase primary capacity serving Paignton. Additional accommodation was approved at Roselands Primary School under P/2018/1214, which included the requirement for a Travel Plan. (Other measures being the opening of the re-purposed Tower House School, and planning for a second primary school on the west of Paignton).

The current proposal encloses an area of public open space for school use. In my view the key strategic planning issue is balancing the needs of the school against the loss of public access and impact on the urban landscape protection area (C5.44) and other site of wildlife interest (OSWI). Paragraph 94(a) of the NPPF requires local authorities to give "great weight to the need to create, expand or alter schools". The proposal is supported by Policies SC3 and SC5 of the Local Plan. Whilst the enclosure of ULPA may have some effect on its value as an "open or landscapes feature within the urban area", the field will remain undeveloped and hedgerows etc. will remain. Therefore the impact on the ULPA is likely to be small. The fence is necessary for safeguarding

purposes. It may be worth protecting the hedge and requiring the bird boxes etc. to be provided through a planning condition.

I appreciate that the proposal will remove an area from public use. However, it is only a small part of the wider Roselands/Clennon area, and I understand does not require the moving of a formal footpath. The land will remain within recreation use, albeit by the school's pupils rather than the general public. As such I do not consider that there is a conflict with Policy SC2 of the Local Plan.

On the basis of the above, I support the application.

Torbay Council's Senior Environmental Health Officer:

No objections.

Police Designing Out Crime Officer:

I have no objection in relation to the application but would like to make the following comments and recommendations for your consideration.

I note that a 2m weldmesh fence will be used which is supported. In order to offer substantial protection and security of the staff and pupils, fencing certificated to a nationally recognised security standard such as LPS 1175 SR1 could be considered.

Dark colours are recommended as they reduce the reflection of light and therefore aid surveillance opportunities.

Gates within the perimeter fencing should match the design, height and construction of the adjoining fence and not compromise security. They should also be of an anti-climb design and if there is an inner lock release, it must be shielded to prevent anyone reaching through to unlock to mechanism.

Devon County Council's Ecologist:

Due to the size and scale of the proposal, it is deemed that the development will not lead to the loss, damage, or disturbance of greater horseshoe bat commuting routes or foraging habitats within a sustenance zone.

In line with the South Hams SAC Habitats Regulations Assessment Guidance document (DCC et al., 2019), and given the above, it is deemed unlikely there is to be a likely significant effect on the South Hams SAC. A detailed HRA is not deemed to be required.

There is no loss of habitat associated with this scheme. The grassland management will remain the same post development as it does currently, and the erection of the security fence will not require the loss of any hedgerow habitat, as confirmed by the consultant ecologist.

The development will lead to the creation of hedgerow habitat and strengthening of linear features through additional planting, as well as the seeding of a more floral diverse seed mixture than currently present onsite. This will lead to a gain in biodiversity, as detailed in the submitted Defra metric spreadsheet.

Condition: An Ecological Mitigation and Enhancement Strategy, which will include details relating to habitat creation, species specification and management, will be submitted to and agreed with the LPA.

Condition: A Construction and Ecology Management Plan, which will include details relating to environmental protection throughout the construction phase of development, will be submitted to and agreed with the LPA.

Condition: A Landscape and Ecological Management Plan, which will include that vegetation maintenance will only be undertaken in the winter, when dormice are in hibernation and would not be present and outside of the bird nesting season, will be submitted to and agreed with the LPA.

Condition: 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.

Condition: 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 if required, shall be submitted to and approved in writing by the local planning authority.

Condition: Details of the boundary fence will be submitted to and agreed with the LPA. These details will include the mitigation measures provided in the Ecological Addendum report (Ecology Services, April 2021).

Natural England:

NO OBJECTION

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

European sites

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development. To meet the requirements of the

Habitats Regulations, we advise you to record your decision that a likely significant effect can be ruled out.

Sites of Special Scientific Interest

Based on the plans submitted, Natural England considers that the proposed development will not have likely significant effects on statutorily protected sites and has no objection to the proposed development.

Sites of Special Scientific Interest Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015 requires local planning authorities to consult Natural England on "Development in or likely to affect a Site of Special Scientific Interest" (Schedule 4, w). Our SSSI Impact Risk Zones are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments likely to affect a SSSI. The dataset and user guidance can be accessed from the data.gov.uk website.

RSPB:

Thank you for the consultation (24 April); I hope these comments are helpful. Whilst RSPB recognises the need to provide schoolchildren with access to safe outside natural space, we have concerns because the proposal will result in loss of some habitat and existing public greenspace and in our view there is not an appropriate level of mitigation or biodiversity net gain.

The 0.4851 ha application site (as described in the Preliminary Ecological Appraisal (Ecology Services, 14/7/19)) is semi-improved grassland with scrub, hedge and trees. It is within the Grange Farm other site of wildlife interest (OWSI) and borders farmland that links to the Clennon Valley. The proposal will result in the grassland management changing from being mown annually to being mown monthly (becoming amenity grassland, a very different habitat), so in the RSPB's view this will reduce the biodiversity value of the semi-improved grassland. Also, installation of a 2m high mesh wire fence will involve removal (and trimming back) of an unspecified amount of the existing scrub and hedgerow.

The PEA noted the likelihood of scrub and hedgerow to host nesting birds and that the site is in an area where suitable habitat could support ciril buntings (a bird of high conservation concern) but considered the proximity to urban development and the level of public use meant ciril buntings would not be present so did not consider them further. While RSPB has no records of ciril buntings at this site from national surveys, we would like to highlight that ciril buntings do breed on suitable farmland habitats around the edges of villages, towns and larger conurbations such as Paignton and Torquay (hence its traditional name 'village bunting') so the potential for their presence should not be discounted on the basis of public access and proximity to urban development.

The PEA also noted that another environmental consultancy was carrying out reptile and dormouse surveys on the site in 2019 (which indicates the habitat has the potential to support those animals) but no information is presented to know if they were found on site. The PEA recommended that Torbay Council liaise with the consultancy to determine if dormice or reptiles were recorded on the site (the Badger Survey and Ecological Update Addendum (April 2021) noted that dormice were found to be potentially absent from the site so their status on site seems unclear). The RSPB recommends this application is not determined until that information is known, as their presence may necessitate further mitigation measures.

The proposed mitigation measures (in the PEA and the Badger Survey and Ecological Update Addendum (April 2021)) are to minimise removal of scrub/hedge vegetation to put up the fence, to time that removal for outside the bird breeding season, to cut the grass down over winter to avoid impacts on any reptiles and to install a 2 way gate to allow for free passage of mammals such as badgers and hedgehogs.

The RSPB recommends that, if your authority decides to grant permission, it attaches conditions requiring removal of any hedge or scrub vegetation to be minimised and timed to avoid the bird breeding season March to mid September inclusive, and ideally to be done in winter and also that a biodiversity offset is calculated for the loss of the semi-natural grassland, to be delivered on other land owned by Torbay Council. The PEA proposed bird nest boxes on trees as biodiversity net gain and these should be secured by condition. The RSPB also recommends enhancing the wildlife and public access value of other local greenspace in Torbay Council's ownership.

We consider our comments align with national and local planning policy including: Torbay Local Plan policy NC1 Biodiversity and geodiversity which states *“All developments should positively incorporate and promote biodiversity features . . . Where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain for biodiversity through the creation or provision and management of new or existing habitats . . . If avoidance and mitigation are not sufficient, residual impacts must be off-set in a manner deemed acceptable by the Council.”*

Torbay Local Plan policy C4 Trees, hedgerows and natural landscape features which states *“Where the loss of, or impact on trees, hedgerows or landscape features is considered acceptable as part of development, replacement or other mitigation measures will be required through planning condition or legal agreement. These measures should at least offset any such harm, and preferably achieve landscape and biodiversity improvements, and make provision for on-going management.”*

The Natural Environment and Rural Communities Act (NERC) 2006 states *“Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity.”*

The National Planning Policy Framework (February 2019) states in para 175 that “. . . opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.”

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

The proposal seeks permission for a change of use to a parcel of land within Clennon Valley to be used as a grassed play and educational area for Roselands County Primary School.

Paragraph 94 of the NPPF states that local planning authorities should give great weight to the need to expand or alter schools through the decisions on applications.

Policy SC3 of the Local Plan specifies that the Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. Policy SC3 notes further that this includes the expansion of schools to meet identified short to medium-term needs. Policy SC5 of the Local Plan states that new development will be assessed for its contribution towards reducing child poverty, proportionate to the scale and nature of the proposal. This includes the need to support investment in existing schools and make appropriate contributions and improve equality of access to high quality education provision for all, including early-years education. The proposed development would improve the education facilities in the area. As such, it is considered that the principle of the development would accord with Policies SC3 and SC5 of the Local Plan.

It should be noted that the Council’s Senior Strategy and Project Planning Officer supports the proposed development. Policy SC2 of the Local Plan is applicable, whereby there will be presumption against loss of existing recreational and leisure facilities unless:

- i) An assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
- ii) The loss resulting from the proposed development would be replaced by

equivalent or better provision in terms of quantity and quality in a suitable location; or

- iii) The development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.

Whilst the proposal removes an area of public open space, it does not require the removal of a formal footpath, although it will encroach over what appears to be an informal footpath within the ULPA. The land will remain within recreational use albeit by the school's pupils rather than the general public. The Council's Senior Strategy and Project Planning Officer considers that the proposal does not conflict with Policy SC2 of the Local Plan.

It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

2. Impact on Visual Character

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

The proposal is for a change of use to a parcel of land within Clennon Valley to be used as a grassed play and educational area for Roselands County Primary School. The site would be enclosed by a 2 metre high green weldmesh fence and two pedestrian access points into the site, as well as a 3 metre wide double gate for vehicular access. Objectors have raised concerns that the proposal is a form of overdevelopment, it is not in keeping with the local area, it will have a negative impact on the local area and it will set an unwanted precedent.

The site is within the Clennon Hill/Roselands Valley Urban Landscape Protection Area. It is important to give consideration to the Urban Landscape Protection Area (ULPA) designation on site in relation to the potential impact the proposal may have.

The site is located within an area designated as an ULPA as defined by Policy C5 of the Local Plan. Policy C5 specifies that development within an ULPA will only be permitted where:

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

The Council's Senior Strategy and Project Delivery Planning Officer has stated that whilst the enclosure of ULPA may have some effect on its value as an "open or landscaped feature within the urban area", the field will remain undeveloped and hedgerows etc. will remain. Therefore, the impact on the ULPA is likely to be small. The fence is necessary for safeguarding purposes. It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPA. It is considered that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the ULPA in terms of the proposal not undermining the value of the ULPA as an open or landscaped feature within the urban area and making a positive contribution to the urban environment and enhance the landscape character of the ULPA, subject to a suitable landscaping scheme.

Notwithstanding the consultation comments above Officers consider that the proposal would result in some harm to the character and visual amenity of the locality, as the proposal will alter the natural appearance of the area. The proposal includes an angular enclosure and could include associated outdoor school paraphernalia that will detract from the natural appearance of the site. In such a case it is necessary to consider whether there are public benefits which would outweigh the harm.

3. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Paragraph 127 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Objectors have raised concerns regarding residential amenity. The proposed development is some 35-45 metres from the nearest residential curtilages. The Council's Senior Environmental Health Officer has been consulted on this application and raises no objections. Given its siting, scale, and design of the proposals, it is considered that the proposals would not result in any unacceptable harm to the amenities of neighbours.

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

4. Impact on Ecology

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

The 0.4851 ha application site is semi-improved grassland with scrub, hedge and trees. It is within the Grange Farm Other Site of Wildlife Interest (OWSI) and borders farmland that links to the Clennon Valley. The application is supported by a Preliminary Ecological Appraisal (PEA) (July 2019) and a Badger Survey and Ecological Update Addendum (April 2021). The PEA noted the likelihood of scrub and hedgerow to host nesting birds and that the site is in an area where suitable habitat could support ciril buntings but considered the proximity to urban development and the level of public use meant ciril buntings would not be present.

It should be noted that the site does not have any tree preservation orders on site, and the site can be cleared without requiring permission from the Local Planning Authority however no tree removal is proposed as part of this development. The proposal will result in the grassland management changing from being mown annually to being mown monthly, becoming amenity grassland. Objectors have raised concerns regarding trees and ecology. Natural England raises no objection to the proposal, stating that Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

The RSPB have been consulted on the proposal and have recognised the need to provide schoolchildren with access to safe outside natural space, however they raise concerns that the proposal will result in loss of some habitat and existing public greenspace and does not provide an appropriate level of mitigation or biodiversity net gain. The RSPB recommends that, if permission is granted, conditions requiring removal of any hedge or scrub vegetation to be minimised and timed to avoid the bird breeding season March to mid September inclusive, and ideally to be done in winter and also that a biodiversity offset is calculated for the loss of the semi-natural grassland, to be delivered on other land owned by Torbay Council.

Devon County Council's Ecologist has been consulted on the application and since the applicant has provided additional ecological information. Due to the size and scale of the proposal, it is deemed that the development will not lead to the loss, damage, or disturbance of greater horseshoe bat commuting routes or foraging habitats within a sustenance zone. In line with the South Hams SAC Habitats Regulations Assessment Guidance document (DCC et al., 2019), and given the above, it is deemed unlikely there is to be a likely significant effect on the South Hams SAC. A detailed HRA is not deemed to be required. The proposed development will consist of constructing a security fence to demark ownership of the semi-improved neutral grass pasture field. The semi-improved grassland pasture field is at present mown on a number of occasions throughout the year. This would be the same for the increased play area and will continue post development. The erection of the boundary fence will

not result in any loss of hedgerow habitats. The Ecologist agrees that Grange Farm Other Site of Wildlife Interest (OSWI) will be unaffected by the current development.

The Ecologist has recommended a number of planning conditions that are recommended at the end of this report. Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy NC1 of the Local Plan.

5. Impact on Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and the application has been accompanied by a flood risk assessment. The Council's Drainage Engineer was consulted on the proposal and confirms that the site is within Flood Zone 1 and the planning application relates only to the erection of fencing that will not increase the impermeable area of the site, therefore raises no objections on drainage grounds to planning permission being granted.

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

Educational development is important for individual growth and the economy and there would be economic benefits to the construction industry from the proposed development.

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 educational facilities. Given the NPPF, great weight should be given to the expansion of schools and therefore the proposal must carry great weight in this balance.

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

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

The Environmental Role

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

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. There will be harm to the landscape quality of this immediate area which weighs against the proposal.

It is concluded that the environmental impacts of the development weigh negatively in the planning balance.

Sustainability Conclusion

Whilst the development is not wholly sustainable having regard to the environmental impacts the social benefits of improved educational facilities weigh heavily in favour of the development

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106: Not applicable.

CIL: Not applicable.

EIA/HRA

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

HRA: Not applicable.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that whilst the proposal will harm the visual amenity of the site, when considering the planning balance the public benefit outweighs such harm. Therefore, on balance the proposal is considered to acceptable having regard to the Development Plan taken as a whole.

Conclusions and Reasons for Decision

The proposal is considered acceptable in principle; it would provide acceptable arrangements in relation to ecology and flood risk, whilst there will be some harm to the visual amenity of the area this is outweighed by the great weight that is given to providing improved educational facilities. On balance the proposed development is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

Officer Recommendation

That planning permission is granted, subject to resolving any outstanding ecological matters and 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

Removal of Vegetation

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

site. The development shall then be carried out in accordance with the details submitted.

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

Ecology Report Recommendations

The development hereby approved shall be carried out in accordance with the mitigation measures and recommendations outlined within the submitted and approved Preliminary Ecological Appraisal (July 2019) and the Badger Survey and Ecological Update Addendum (April 2021).

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

Badger 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 if required, shall be submitted to and approved in writing by the local planning authority.

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

Ecological Mitigation and Enhancement Strategy

Prior to the land being brought into use by the school an Ecological Mitigation and Enhancement Strategy, which will include details relating to habitat creation, species specification and management, will be submitted to and agreed with the Local Planning Authority. The development shall then be carried out in accordance with the approved details.

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

Construction and Ecology Management Plan

Prior to the commencement of development, a Construction and Environmental Management Plan, which will include details of environmental protection throughout the construction phase, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved details.

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

This needs to be a pre-commencement condition to ensure the impacts of construction are mitigated from the outset.

Landscape and Ecological Management Plan

Prior to the land being brought into use by the school a Landscape and Ecological Management Plan, which shall include details relating to habitat creation, species specification and management, and timing of provision, including that vegetation maintenance shall only be undertaken in the winter and outside of the bird nesting season in the interest of dormice and nesting birds, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented.

Reason: In the interests of ecology and biodiversity, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030

Boundary Treatment

Prior to the first use of the development hereby approved, the boundary treatment shown on the approved plans shall be fully installed and retained for the life of the development, in accordance with the mitigation measures provided in the Ecological Addendum report (Ecology Services, April 2021).

Reason: In interests of visual and residential amenity and ecology and biodiversity and in accordance with Policies DE1, DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Hedge and Tree Protection

No hedge or trees that are within or border the site shall be felled, pruned or cut back other than in accordance with a landscape and ecological management plan (LEMP) that shall have previously been submitted to and approved in writing by the LPA prior to the change of use commencing. The LEMP shall also include details of how the retained vegetation will be protected from damage from users of the approved development.

Reason: In interests of visual amenity and ecology and biodiversity, in accordance with Policies DE1 and NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

Informative(s)

1. 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.
2. Responsibilities of the applicant / developer:

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

Relevant Policies

DE1 – Design
DE3 – Development Amenity
ER1 – Flood Risk
ER2 – Water Management
NC1 – Biodiversity and Geodiversity
PNP1(c) – Design Principles
PNP1(i) – Surface Water
SS3 – Presumption In Favour Of Sustainable Development
SS11 – Sustainable Communities

TORBAY COUNCIL

Application Site Address	Former Dairy Crest Depot, Parkfield Road Torquay. TQ1 4BH
Proposal	Demolition and redevelopment of former dairy depot to form 55 residential dwellings (48 apartments and 7 dwelling houses), with associated parking and landscaping.
Application Number	P/2020/0497
Applicant	McCarthy Contracting & Development Ltd
Agent	Kay Elliott Architects
Date Application Valid	05.10.2020
Decision Due date	04.01.2021
Extension of Time Date	18.05.2021
Recommendation	<p>Approval: Subject to;</p> <p>Resolution of the dormer design within the dwellings to the satisfaction of Officers;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>S106 legal agreement to secure deferred obligations for Affordable Housing and funding to deliver a Traffic Road Order adjacent to the site.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional 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 application site is a former milk depot that sits between Lymington Road and Parkfield Road, approximately 1km north of Torquay Town Centre, in an area that has a mixed commercial and residential character.

The site is approximately 0.5 hectares in size and is roughly rectangular in shape at 125m long and with a predominate width of around 30-40m.

The site retains a number of buildings and structures from its former depot use, which sit amongst an extensively hard-covered site floor. Other than a tree group in the south-east corner of the site vegetation is principally limited to emerging scrub growth amongst the hardstanding. There is a notable row of mature lime trees to the east along Lymington Road, but these fall outside the site and are set within the public highway. There is also a wooded bank on the opposite side of Parkfield Road. To the south lies commercial and residential buildings, and to the north and east there are residential properties set across public highways.

In terms of levels the site is largely flat and is slightly lower than the adjacent streets. To the east the Lymington Road is generally between 0.5 and 1m higher than the adjacent site level and to the west Parkfield Road is between 1m-2.5m higher than the adjacent site level.

In terms of access points there are two vehicular accesses, which are both off Parkfield Road.

In terms of designations the site sits within a Critical Drainage Area and there is an identified linear flood risk area that follows the culverted waterway that flows from north to south towards the town centre and coast. The Torquay Neighbourhood Plan allocates the site for residential purposes and notes an approximate yield (number of units) of 40. In terms of further context the Grade 2 Listed Penny's Cottage sits to the north across a road junction, and the adjacent wooded bank on the opposite side of Parkfield Road sits as part of an Urban Landscape Protection Area and Local Wildlife Site within the Torbay Local Plan and Local Green Space within the Torquay Neighbourhood Plan.

Description of Development

This is a full application for the demolition of the existing buildings and the provision of a single apartment block of 48 units and a single residential terrace of 7 dwellings.

The apartment block is proposed in the south-western quarter of the site adjacent to Parkfield Road and covers a footprint of approximately 70m long by 17m deep. The building has 4 floors of accommodation with an under-croft storey of parking, which is set below the level of Parkfield Road. The uppermost storey of accommodation is set within a pitched roof. The base material is white render with the intermittent use of dark umber standing seam cladding, under a natural slate roof.

The dwellings are proposed in the north-eastern quarter of the site with their principal elevations fronting Lymington Road and rear gardens backing on to Parkfield Road. The dwellings are 2-storey in scale with a pitched roof. Alternate dwellings are proposed with dormers to the front and rear which provides additional accommodation within the roof.

In terms of parking facilities 22 spaces are proposed around the buildings and 45 spaces are proposed within the under-croft of the apartment building. This presents 67 spaces for the 55 units, which include 5 visitor spaces and 5 disabled spaces. The proposal also includes highways works to provide 6 formalised public parking bays in the street along Parkfield Road.

The vehicular access is maintained within the existing location of the central access off Parkfield Road and a pedestrian access is proposed on to the footpath on the south side of Lymington Road.

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

Planning Application: P/2019/0283: Outline application for the demolition of existing buildings and change of use of the land from industrial to provide up to 43 residential dwellings with parking, with detailed access, layout and scale (Matters of appearance and landscaping Reserved). Approved 28.10.2019.

Summary of Representations

3 objections (from 2 households). Key issues as follows:

- No social housing being provided
- Torbay doesn't need more flats
- On the flood plain
- Out of keeping with the area
- Increased traffic
- Increased noise

In addition comments have been submitted from the Torbay and South Devon NHS Foundation Trust and the NHS Devon Clinical Commissioning Group.

The Torbay and South Devon NHS Foundation Trust principally raise that a planning obligation of £56,511.00 should be sought towards the gap in the funding created by each potential patient from this development. Concluding without the requested contribution, the access to adequate health services is rendered more vulnerable thereby undermining the sustainability credentials of the proposed development due to conflict with NPPF and Local Development Plan policies. The NHS Devon Clinical Commissioning Group request a planning obligation to the sum of £28,644.00 towards the cost mitigation of additional pressure on local healthcare, citing concerns around local surgeries already be over capacity. Without such funding the these health groups object to planning permission being granted.

Summary of Consultation Responses

Torquay Neighbourhood Forum

The plans offer a far better design quality than the previously approved plans, and the row of terraced house are in an appropriate scale to compliment Penny's Cottage and the row of Victorian house opposite. The flats are placed at the back of the site next to Parkfield Road, so blend into Stantaway Hill. It is disappointing that they are not including any affordable housing. The redevelopment of this brownfield site is viewed

as positive. There are some concerns about Highways issues. It is positive to see the extension of the footpath giving better safe movement for pedestrians along Parkfield Road.

The Highway Authority (SWISCo/WSP)

Based upon the revised information submitted by the applicant through the course of the application the Highway Authority offers no objection to the proposed development on the condition that the costs of the Traffic Regulation Order are confirmed.

Previous points of concern regarding the displaced on-street parking, the traffic regulation order, the wall height near to the entrance, and the pedestrian visibility for the crossing point, have all been addressed.

Drainage Engineer (Torbay Development Agency)

Providing the flood mitigation measures included in the site-specific flood risk assessment and the surface water drainage is constructed in accordance with the drainage strategy reference AT2323 dated 9th April 2020, there is no objection on drainage grounds to planning permission being granted for this development.

South West Water

No objection subject to surface water being managed in accordance with the submitted Flood Risk Assessment.

Environment Agency

Consider that the proposed development will be acceptable provided that a condition requiring the implementation of the mitigation measures contained within the submitted FRA is included within any permission granted, including the floor heights detailed.

The Contamination Remedial Measures shows that the identified contaminations would not pose a problem to the water course environment.

Before determining the application the Authority will need to be content that the flood risk Sequential Test has been satisfied in accordance with the NPPF if you have not done so already.

Senior Tree and Landscape Officer (SWISCo)

The development is sustainable from an arboriculture perspective taking into account the existing trees, however the matter of leaf deposition should be addressed. Recommend;

- A compliance condition for the tree protection measures as per 01528 TPP 28.02.2020.
- Pre commencement condition for an arboricultural method statement pertaining to but not exclusively excavation works in the RPA, remedies for leaf litter deposition onto the property and cars, timings of site visits.
- A pre-commencement condition for a landscape plan. This will need to address the loss of the B category group to facilitate the proposals.

Torbay Council 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.

Having reviewed the document prepared by A.Robin Hood & Associates Geotechnical (Consultants) it is apparent that hydrocarbon contamination in the form of petroleum and diesel has been identified in two areas this site. Given that this is a residential development with a parkland and gardens there is therefore a potential risk to human health if this is not remediated. As such I would therefore suggest a planning condition for the submission and approval of a Remediation Scheme (and implementation).

Waste Client Manager (SWISCo)

SWISCo will not drive vehicles on to new unadopted highways to collect waste and recycling. The location of the communal bin store for the 48 properties is too great for the collection crews to bring the bins to the adopted highway for collection (they will bring bins a maximum of 20 meters. I would also be concerned about where the collection vehicles would be able to wait on the public highway whilst collections took place.

Clarification of where the collections for the individual properties would take place ie. Where would the residents place their waste and recycling for collection should be sought.

Police Designing out Crime Officer

There is a lack of meaningful detail regarding safety and security and designing out crime or crime prevention. This should be addressed prior to determination. General advice offered regarding consideration of Secured by Design (SBD), a police owned initiative which aims to improve the security of buildings and their immediate surroundings to provide safer places. Some concern is raised on the level of car parking.

Viability Advisor (Torbay Development Agency)

Further to the second independent report prepared by Bettesworths it is agreed that on a marginal site such as this a deferred contribution basis is a fair way forward in terms of Affordable Housing.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact (including the impact upon the setting of the adjacent Listed Building)
3. Residential Amenity
4. Highways, Movement and Parking
5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change
8. Contamination

1. Principle of Development

In terms of context the site is a long-vacant 'brownfield' site located in an established urban area of Torquay relatively close to the town centre and the various shops, services and associated transport options. It also sits in a corridor where there is a strong character of both residential and commercial uses.

Policy H1 (Applications for new homes) of the Torbay Local Plan cites that proposals for new homes within the built up area will be supported subject to accordance with the other policies contained within the Local Plan. The site sits in the built up area.

Policy TS4 (Support for Brownfield and Greenfield development) of the Torquay Neighbourhood Plan cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. Other material considerations will be discussed in turn within the Officer Assessment, however in terms of principle there is a concept of support.

Specific to this site the Torquay Neighbourhood Plan has identified the land as one of 5 additional sites allocated for housing within Torquay (beyond the allocation drawn from the Torbay Local Plan's pool of identified sites) within Policy TH1. The site reference is NP3 and the estimated capacity is 40 units. This establishes a clear support for the principle of a residential use within the Development Plan.

In addition to the above the Council cannot currently demonstrate a 3 or 5 year housing land supply, which is a relevant material consideration to the principle. 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. This principally means that harm should significantly and demonstrably outweigh benefits for permission to be withheld. This current context therefore increases the prospect of planning permission being granted because it 'tilts' the balance in favour of approving an application for housing.

Drawing together the policy landscape there is support for the provision of a residential use on the site. The policy support is clear within Policies TH1 and TS4 of the Torquay Neighbourhood Plan and the current shortfall in housing land supply strengthens this support. This position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of the Officer Assessment.

2. Design and Visual Impact (including the impact upon the setting of the adjacent Listed Building)

Nationally achieving good design is a central thread within government guidance and Part 12 of the NPPF (Achieving well-designed places) offers key guidance. Paras 126, 127, 130, and 134 are particularly relevant and accumulatively guide 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 134 advises 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 (Design) of the Torbay 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 DE4 (Building Heights) cites that the height of new buildings should be appropriate to the location and that they should be built to the prevailing building height unless there are sound socio-economic benefits to justify a deviation.

Policy TH8 (Established architecture) of the Torquay Neighbourhood Plan cites that development should be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context subject to resolving a minor matter on dormer design within the terrace of dwelling. The key components of the assessment that inform this judgment are outlined below.

In terms of the detailed layout the proposal presents a large linear apartment building that is approximately 70m long and 17m deep, which accommodates 4 floors of accommodation over a parking level. Set diagonally opposite this building it proposes a short terrace of 7 dwellings that spread northwards towards the narrow and more locally prominent end of the site. Between the buildings there is a forecourt of parking and a more substantial area of soft landscaping provided by a communal landscaped area and the combined private gardens.

In terms of visual impact the plot is considered capable of holding a large building in the location and to the scale proposed, and the provision of lesser-scaled dwellings towards the northern end of the site is deemed a positive response to the greater local prominence of this end. In terms of the basic layout there is sufficient space around the buildings to provide adequate softening and present an acceptable setting for the development, that would hence not cramp or over-develop site.

In terms of scale the apartment building adequately respects the height of the adjacent dwellings to the south, which are 3-storey in height under a pitched roof as viewed from Parkfield Road. The apartment block offers 5 floors however it is perceived to hold the character of a 3-storey building as the parking level is set below Parkfield Road and the uppermost (4th) storey of accommodation is delivered within the roof element of the building. This hence presents a 3+roof accommodation character next to a 3+roofscape character and scale of development. The scale of the building as viewed from the east is greater however it remains reflective of the development to the south which combines stepped commercial development under the 3-storey dwellings. As touched on above the provision of domestically scaled 2-storey dwellings in the northern part of the site is considered a positive response to the narrowing of the site towards a prominent junction and to the context of the terraced properties opposite. The pitched form of the dwellings is considered locally reflective and again respects the existing terraces nearby. Dormers are proposed in alternate dwellings with small flat roofed dormers to the front and slightly larger flat roofed dormers to the rear.

Although dormers are not obviously locally characteristic their scale and refined materials is considered to present a position of acceptability as pre-planned features across the terrace, with any subsequent impact on character limited. The rear dormers are appropriately scaled however their offset nature does draw unnecessary attention to their presence and a more symmetrical rhythm is advised, central within the roofscapes. This matter is with the agent to respond on and the recommendation to members reflect the desire for further improvement of this element.

In terms of detailed design and materials the apartment block presents a simple modern and rhythmic form with use of white render as the base material with dark umber cladding used to present vertical breaks within the long facades, which helps soften the elevation and break up its scale. This presents a more domestic rhythm and character and is supported. The pitched roof is proposed in natural slate which is supported. In terms of the dwellings these are again proposed in a base material of render under a slate pitched roofs. This simple palette is supported.

It is noted that the Neighbourhood Forum consider the proposal to be a better design quality than the previously approved plans and note the row of terraced house are in an appropriate scale to compliment Penny's Cottage and the row of Victorian house opposite.

Regarding heritage assets there is a requirement to pay special attention to the desirability of preserving or enhancing the setting of listed buildings, and in terms of this development Penny's Cottage, a listed building, sits to the north across the road junction. The proposal is considered to represent the opportunity to enhance the view along Lymington Road towards Penny's Cottage by removing the commercial and hard industrial urban landscape with a softer landscaped setting which better reflects the historic setting the cottage. Similarly the experience of the setting is also likely to be enhanced by the scheme through the removal of the general industrial environment resulting in a more tranquil setting. In terms of the impact upon the setting of the building it is hence considered to be positive one overall.

In terms of design and visual impact for these reasons above the development is considered acceptable as there would be no adverse impact upon the character or visual amenities of the locality. The proposal is deemed in broad accordance with Policies DE1, DE4, SS10 and H1 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and guidance contained within the NPPF in terms of good design. This 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, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

3. Residential Amenity

The NPPF guides (Paragraph 130) that decisions should ensure that developments create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the 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 proposal seeks to provide 46x 2-bed apartments generally sized between 70-87sqm, and 2x 1-bed apartments at circa 57sqm. The 7 dwellings are a mix of 3x 3-bed and 4x4-bed units, with floor areas of circa 100sqm and 125sqm respectively.

Quality of living accommodation for future occupiers

Policy DE3 of the Local Plan requires that new residential provides a good level of amenity and that units provide adequate floor space 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.

2-bed apartments with two double bedrooms should have an internal area of at least 70sqm with 2sqm of additional storage and 1-bed (2 person) apartments should be at least 50sqm with 1.5m of storage. All apartments are considered to provide an acceptable scale of living accommodation with floor areas exceeding the prescribed standards. 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 adequately sized windows to all key spaces and suitable open outlooks. Policy DE3 also seeks secure the provision of usable outdoor amenity space where apartments should deliver 10sqm per unit either individually or communally. The Torquay Neighbourhood Plan is in alignment with this guidance as advised within Policy THW4, either as balconies or communal space. The scheme provides both balconies and a communal greenspace that accumulatively exceeds the policy-guided minimum of 480sqm, which provides an acceptable level of outdoor space for future occupants of the apartments.

In terms of the dwellings the internal spaces accord with national space standards and the simple terraced form presents adequate natural light and outlook to key habitable rooms with front and rear windows. The rear gardens range between 33sqm and 78sqm and although this presents some tension with the Torbay Local Plan, which seeks a minimum of 55sqm, the Torquay Neighbourhood Plan guides a lesser provision for all new houses of no less than 20sqm of outside space. The Neighbourhood Plan is deemed to hold primacy on this matter and hence the outdoor spaces are considered adequate.

In terms of key ancillary elements Policy W1 of the Torbay Local Plan states that as a minimum, all developments should make provision for appropriate storage of waste. Communal bin storage areas have been provided within the apartment building and there is identified waste storage within the rear gardens of the dwelling with rear access to Parkfield Road. The proposed bin storage facilities are considered acceptable and compliant with Policy W1. As a note the waste collection for the apartment block is likely to be delivered by a private provider due to the distance of the collection area from the adopted highway.

Considering the various aspects that influence a good living environment development is 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, and advice contained within the NPPF.

Adjacent neighbouring amenity

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

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through positively managing the process through a Construction Method Statement. One has been submitted in support of the application and is considered to adequately manage the construction process. Compliance should be secured through a planning condition.

In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance. The move from a commercial use to residential is likely to be positive as although the site lies empty a future commercial use could create noise and disturbance.

In terms of scale and height there is unlikely to be any loss of outlook or light to the north and east as adjacent residential properties are set some distance away across relatively wide public roads. The sensitivity is further reduced by the provision of dwellings on the northern part of the site and the large lime trees to the east of the site. To the south the existing residential building off Parkfield Road is relatively close however the relationship is considered an acceptable one, towards what is a secondary elevation of the end dwelling, where key rooms do not rely solely on the northern elevation for light or outlook. In addition there would be no undue impact on outlook to the rear and small outdoor amenity areas would not be overshadowed due to the northerly position of the proposed apartment block. To the west there is no development to consider.

In terms of privacy, inter-looking and overlooking nearby properties to the north, and east across Lymington Road, are well-distanced and would be unaffected by the development. The residential building to the south off Parkfield Road is again relatively close and there are windows at an oblique angle and small terraced areas that appear defined by privacy screens. The level of over-looking and any impact would appear moderately sensitive, but any impact could be mitigated by screening of the end balconies if deemed necessary. It is proposed that a condition is attached to agree the balcony treatments prior to occupation to enable due assessment of any impact.

In terms of amenity for the reasons above the proposal is considered to comply with Policy DE3 of the Torbay Local Plan and advice contained within the NPPF, as it would present good quality living environments and would not unduly impact the amenities afforded neighbouring occupiers.

4. Highways, Movement and Parking

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 110). It also furthers (Para 111) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TA1 of the Torbay Local Plan and advice contained within the NPPF principally seeks to develop a sustainable model of travel. This baseline aspiration is there to try and meet the travel needs of everyone, whilst also reducing the need for travel and thus the environment impact of movement from development.

The site is centrally located just north of Torquay Town Centre and sits in an established urban environment characterised by residential properties and commercial activities. As a centrally located brownfield site it is considered a good location for residential development, and one that could meet the travel needs for occupiers equally, not just car owners, whilst also presenting options for sustainable modes of local travel for all. The development of the site for housing presents a basis for development that accords with the broad policy direction for sustainable travel patterns.

Policy TA2 of the Torbay Local Plan states that all development should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided. The Torquay Neighbourhood Plan is largely silent on access and highway matters beyond guiding that, to encourage use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate (Policy THW5).

The proposed vehicular access off Parkfield Road amends the existing access to provide adequate arrangement for residential use, including visibility splays. Following the receipt of further information on the height of a nearby wall the access is considered acceptable with no concerns raised by the Highway Authority. In terms of pedestrian movement there is a segregated footpath into the site which will ensure there is no conflict with cars. There is also a proposed access onto the footpath to the east of the site serving Lymington Road, which is a positive addition in terms of offering direct pedestrian movement options. Regarding supportive works to the highway the proposal will include the provision of 2 dropped crossing points across Parkfield Road, which provides adequate connection to the wider footpath network, and the Highway Authority has raised a safety concern re potential parking near to the junction with Teignmouth Road to the north, which would require the extension of double yellow lines. This can be secured via an obligation to fund the necessary Traffic Road Order.

Subject to the above the proposal presents an acceptable access and movement linkages with the public highway network.

In terms of the provision of parking and cycling facilities Policy TA3 and Appendix F of the Torbay Local Plan provides the policy context, where it provides estimated requirements for parking that reflect a balance between ensuring that the levels of car parking generated by development are met on site, with the need to ensure that due consideration is also given to sustainable transport methods. Policy TH9 of the Torquay Neighbourhood Plan cites that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

Appendix F identifies an expected requirement of 2 car parking spaces per dwelling and 1 car parking space per apartment. The guidance cites that parking for visitors should also be provided for flatted development, however there is no guidance on what levels of visitor parking should be provided though. The guidance notes also state that all dwellings should have electric charging points and in flatted development 20% of available spaces should have electric charging points. In additional there should be 10% of spaces suitable for disabled users.

In terms of car parking the development provides 45 spaces within the apartment building's undercroft, 17 spaces within the central forecourt, and 5 spaces adjacent to Parkfield Road to the rear of the dwellings. Following revised plans that provide greater clarity on the provision and allocation the dwellings will have a policy compliant allocation of 2 spaces each and the apartments will have a policy compliant level of 1 space each. This presents a surplus of 5 spaces allocated for visitors. The level of visitor spaces is considered acceptable considering the relatively central and sustainable location. It is noted that the development also proposes to formalise 6 public parking spaces along Parkfield Road with some land being given up to public highway to facilitate these. In terms of electric charging points the provision for the dwellings is uncertain and hence a planning condition is proposed to secure detail on the provision and location of these. 12 of the spaces within the apartment block are detailed as electric charging spaces, which is above the policy expectation. These should be secured by condition. In terms of disabled parking revised plans have increased the identified provision from 2 spaces to 5 spaces, 4 within the undercroft and 1 visitor space within the forecourt. The policy position is up to 10% of the provision and hence the revised provision is considered acceptable.

In terms of cycle parking dwellings are expected to deliver the capability of storing 2 cycles and flats 1 cycle. Defined cycle storage for 2 cycles is shown within the rear gardens of each of the dwellings and there are 48 cycle hoops within the undercroft, which is considered to present a policy compliant level of cycle parking cross the development. Visitor cycle parking in a legible location should be secured and it is suggested this is done via a planning condition.

Considering the broad accordance with the Development Plan and advice contained within the NPPF the proposal is considered acceptable on highway and movements

grounds, and in accordance with the Policies TA1, TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF.

To ensure that other forms of transport are duly promoted a sustainable travel plan should be conditioned with ongoing management to review and improve if the modal shift targets are not being reached.

5. Ecology, Biodiversity and Trees

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

Policy NC1 of the Torbay Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Guidance within the NPPF provides similar guidance to the above and notably Para 180 guides that when determining planning applications, local planning authorities should apply principles that include opportunities to improve biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity. Policy C4 of the Torbay Local Plan seek the retention of trees and other natural features.

In terms of ecology the site has limited value in terms of flora and fauna with notable vegetation limited to a group of trees near to the southern border of the site. Due to the extent of hardstand and buildings there appears limited habitat valuable to protected or other species beyond this tree group. The tree group is shown to be removed due to its proximity to the apartment block and it's shadowing of the amenity space. The accompanying ecology information cites precautionary measures regarding working vegetation or building removal outside of the nesting season, and the sensitive evolution of a lighting scheme. These can be secured by planning conditions.

In terms of biodiversity, in-line with Policy NC1 and guidance contained in the NPPF, measures to enhance biodiversity should be duly considered and it is noted that the submitted ecology report is absent of commentary on biodiversity enhancement measures. Considering this it is recommended that any grant of planning permission is subject to a planning condition requiring a biodiversity statement to be submitted to and approved in writing by the Local Planning Authority, to ensure that biodiversity interests are promoted through the development, which shall include any physical measures to enhance biodiversity such as providing bat and bird boxes to enhance roosting and nesting facilities.

Policy C4 of the Torbay Local Plan cites that development will not be supported when it would seriously harm either directly or indirectly, protected or veteran trees, subject to offsetting measures etc. There are no formally protected trees on or adjacent to the site however there is a notable tree group in the southern part of the site and there are notable limes within the public highway along the eastern border. The application is supported an arboricultural assessment that establishes tree protection measures to guard against potential harm during the construction phase. Advice from the Tree

Officer is that the development is sustainable from an arboriculture perspective considering the existing trees, however the matter of leaf deposition should be addressed by a planning condition, along with a compliance condition for the tree protection measures as per the submitted plan, and pre commencement conditions for an arboricultural method statement and a detailed landscape plan. This will need to address the loss of the B category group to facilitate the proposals.

In light of the conclusions above the development is considered comfortably aligned with the aims and objectives of Policies NC1 and C4 of the Torbay Local Plan, Policy TE5 of The Torquay Neighbourhood Plan, and guidance contained within the NPPF.

6. Flood Risk and Drainage

The NPPFs key guidance (Para 167) is when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and where appropriate applications should be supported by a site-specific flood-risk assessment. It furthers that development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The application site sits within the wider Torbay Critical Drainage Area as designated by the Environment Agency and there is also a linear flood risk area that partly straddles the site as it runs south following the valley floor and culverted River Feet down Teignmouth and Lymington Road towards the coast to the south.

The site has been allocated for housing within the Torquay Neighbourhood Plan which has undertaken the process of public scrutiny and is an adopted document that forms part of the Development Plan. As such the sequential test does not need to be satisfied as part of the application process and the key tests are the developments flood resilience and safety and whether it would increase the risk of flooding elsewhere.

The application is supported by a detailed Flood Risk Assessment. In terms of flood risk and resilience the position and heights of the apartments and dwellings has been set to respond to the risk of flooding. The apartments feature an undercroft with raised habitable accommodation, and the dwelling floor levels are set at a height to respond to risk. There are also mitigation measures regarding the build fabric proposed. The Environment Agency considered the proposal acceptable subject to the design measures being secured by condition.

In terms of surface water management and flood risk the drainage design responds to the results of the infiltration testing and site investigations, which limits the use of soakaways to serve the development. The design solution proposed is one of controlled discharge to the Public Sewer via an attenuated discharge, controlled to the

equivalent to the 'greenfield' run off rate. The Councils Drainage Engineer has reviewed the flood risk assessment and drainage strategy and raises no objections. South West Water raise no objection to the proposed scheme and its drainage solution.

In light of the above the proposal is deemed acceptable on flood risk and surface water drainage grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the NPPF.

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 section 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 an efficient building form (stacked floor plates (apartments), low wall to floor ratio and terrace typology), high levels of thermal insulation, low fabric air permeability, energy efficient LED light fittings and controls, and east and west facing units allowing for passive solar gain. It is recommended that detail to evolve and provide certainty on design elements for low carbon development should be secured by planning condition.

Regarding 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, and 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 integration of these aspirations.

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

8. Contamination

The site has held former commercial uses and the application is supported by a geotechnical assessment to explore possible contamination.

Policy ER3 of the Torbay Local Plan provides guidance that development must take into account environmental considerations and appropriate investigations made, and development will need to demonstrate that any contamination can be satisfactorily overcome without risk to health.

The Council's Community Safety Officer has reviewed the accompanying document (A.Robin Hood & Associates Geotechnical (Consultants)) and confirmed that contamination in the form of petroleum and diesel has been identified in two areas this site. It is advised that given that this is a residential development with a parkland and gardens there may be risk to human health if it is not remediated. It is suggested that a planning condition for the submission and approval of a Remediation Scheme (and implementation) is secured.

Regarding impacts on watercourses the Environment Agency has confirmed that the Contamination Remedial Measures shows that the identified contaminations would not pose a problem to the water course environment.

Considering the advice received the proposal is considered suitable for planning approval subject to conditions, in accordance with Policy ER3 of the Torbay 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

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 is allocated for housing. Once the development 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 some time 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 especially relevant to the proposed development are impacts on

ecology and biodiversity, contamination, drainage and carbon reduction. These matters have been considered in detail above.

The environmental benefits identified are marginal in the case of any biodiversity net gain, addressing contamination, and mitigating flood impacts. There is an environmental benefit to providing 55 units within a sustainable location where dependency on car use could be limited.

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

Affordable Housing

Policy H2 of the Torbay Local Plan identifies that as a brownfield site with a scheme of over 20 dwellings 20% affordable housing, usually provided on site, should be provided. For a scheme of 55 dwellings this equates to an affordable housing provision of 11 units to provide a policy compliant development.

The applicant has submitted a viability assessment that concludes that it is not viable to deliver any affordable housing. The submitted assessment has been scrutinised by the Torbay Development Agency as an independent 3rd party and following further work the conclusion that the scheme is not sufficient viable to deliver affordable housing is agreed.

The concept of viability is detailed within the Council's Adopted Affordable Housing Supplementary Planning Document (SPD) and as it has been concluded that the development cannot afford to deliver Affordable Housing then this should be accepted subject to a S106 Legal Agreement that includes a deferred obligations clause in-line with the Adopted SPD.

CIL

The application is for residential development in Zone 1 where the Community Infrastructure Levy (CIL) is £30 per square metre of additional gross internal floor area created.

The CIL liability for this development is £30 per square metre.

The application form cites new floorspace created is 6812sqm, assuming this is all liable floorspace this would present a CIL levy of £204,360.00. A CIL form has been requested.

S106

As CIL liable development the application is not subject to "sustainable development" obligations as identified within the Council's Adopted Affordable Housing SPD and hence it is not appropriate to seek obligations to counter potential pressure upon schools or parks etc. It would however be necessary to secure site acceptability matters where it is needed to make the development acceptable in planning terms.

Highway works:

Traffic Road Order (extension to double yellow lines on Parkfield Road): £5000.00

Other highways improvements can be secured via a planning condition attached to any grant of approval to enter into a S278 highway agreement.

Loss of employment:

The site appears to have been disused for a number of years and on this basis it is not considered reasonable to seek loss of employment obligations. However, if it is found that the site has been within use then, if viable (after delivering the policy compliant level of Affordable Housing) it will be necessary to secure financial mitigation to bring forward a commercial site elsewhere.

Subject to the points above the development is in accordance with Policies SS5, SS6, SS7, SS9, SS11 and H2 of the Local Plan and the Planning Contribution and Affordable Housing SPD.

Requested Healthcare Obligations

Two healthcare bodies have requested obligations are sought to mitigate the impact on healthcare provision. The Development Plan only seeks S106 obligations for health care from specialist accommodation for the elderly (as per Policy H6) or where development gives rise to a specific need (such as a new surgery). The obligations sought by the NHS bodies are not considered to meet the necessary tests for obligations and cannot be sought. In this instance in the absence of a particular policy

to support the notion of health obligations it is not considered justifiable to seek the obligations on this brownfield allocated site where broad growth levels in housing land supply are below the levels expected within the Development Plan.

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. The development does not meet the thresholds for screening and is not in a sensitive area.

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

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC and a formal HRA screening is not necessary in this instance as the proposed development is unlikely to have a significant effect on the South Hams SAC.

The proposal presents a controlled discharge that mimics greenfield runoff rates into the Public Sewer, which will minimise impacts upon outfall flows and any potential impact up the marine candidate SAC, in-line with Policy ER2.

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 a good use of a redundant brownfield site that is allocated for housing and would provide much needed housing to help meet local need.

The proposals are in overriding accordance with the provisions of the Development Plan and the 'Tilted Balance' adds significant weight in favour of the development in the absence of significant harm being identified.

The Torquay Neighbourhood Plan cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan (Policy TS4 - Support for Brownfield and Greenfield development). There are deemed to be no significant adverse impacts, as outlined within this report.

Officer Recommendation

Approval: Subject to;

Resolution of the dormer design within the dwellings to the satisfaction of officers;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;

S106 legal agreement to secure deferred obligations for Affordable Housing and funding to deliver a Traffic Road Order.

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

Conditions

Remediation Scheme

No development, excluding demolition of the existing buildings, shall take place until a detailed Remediation Scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, has been submitted to and been approved in writing by the Local Planning Authority. The scheme shall include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination are understood prior to works on site, and that risks both during the construction phase and to the future users of the land are minimised. This is to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy ER3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

Implementation of Approved Remediation Scheme

No development, excluding demolition of the existing buildings and development required to be carried out as part of an approved scheme of remediation, shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority shall be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved Remediation Scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and be approved in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination both during the construction phase and to the future users of the land are minimised, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors, in accordance with Policy ER3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

FRA / Drainage

The development shall be carried out in accordance with the submitted Flood Risk Assessment (9th April 2020 Aqua tech) and the following mitigation measures it details:

- Finished Floor Levels (FFLs) shall be set no lower than 38.6 metres and 40.6 meters above Ordnance Datum (AOD) as shown in Foul and Surface Water Drainage Layout AT2323 drawing 11,
- External Flood Routing shall be in accordance with Drainage Layout AT2323 drawing 11 to route any exceedance flows away from the buildings,
- Safe Access and Egress shall be provided to higher ground via open footbridge to Parkfield Road.

These mitigation measures shall be fully implemented prior to occupation of each building and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

The approved surface water drainage scheme shall be implemented in full prior to the first occupation of the development.

Reason: To reduce the risk of flooding to the proposed development and future occupants and to ensure safe access and egress from the development during an extreme flood event, 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.

Construction Method Statement

The development shall proceed in full accordance with the submitted and approved Construction Method Statement.

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.

Hours of Construction

Hours of operation throughout the construction phase shall be between 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.

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

Highway agreement

Prior to the commencement of development, excluding demolition of the existing buildings, all necessary legal agreements shall be made with the Local Highway Authority in respect to all proposed works to the highway. The agreed works shall be implemented in full prior to the first use of the development.

Reason: To secure all necessary works to the public highway in order to ensure highway safety is maintained and network impacts are adequately managed, in accordance with Policies TA1 and TA2 of the Torbay Local Plan and advice contained within the NPPF.

Tree Protection Measures

Prior to the commencement of development the tree protection measures outlined in approved plan 01528 TPP 28.02.2020.a shall be implemented in full. The approved protection measures shall be maintained in full 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 Policies DE1 and C4 of the Torbay

Local Plan 2012-2030. These details are required to be implemented prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Arboricultural Method Statement

Prior to the commencement of development an Arboricultural Method Statement (AMS) pertaining to but not exclusively excavation works in the RPA, remedies for leaf litter deposition onto the property and cars, timings of site visits, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved AMS.

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 to be implemented prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

External lighting

Prior to the first use of the development an external lighting plan, including security lighting, which seeks to ensure no undue impact upon adjacent occupiers or wildlife habitats, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall proceed in full accordance with the approved lighting plan and no additional external lighting shall be incorporated within the development during its lifetime.

Reasons: In order to protect visual amenity and the amenity of adjacent occupiers by maintaining a satisfactory form of development in accordance with Policies DE1, DE3 and NC1 of the Torbay Local Plan 2012-2030.

Low Carbon Development

Prior to the commencement of development of the build process above finished ground floor level (excluding demolition or general groundworks), details of the proposed measures to deliver low carbon development shall be submitted for the approval in writing by the Local Planning Authority. The approved measures shall be fully incorporated within the development prior to its first use and maintained thereafter.

Reason: In the interests of sustainable development and in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030 and the NPPF.

Secured by Design

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy TH2 of the Torquay Neighbourhood Plan.

Boundary Treatments / Means of Enclosure

Prior to the first use of the development details of all boundary treatments, gates and retaining structures shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved detail and the boundary treatments shall be retained as approved at all times during the lifetime of the development. No additional or alternative means of enclosure shall be provided at any time.

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

Ecology - 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 and the NPPF.

Ecology – Biodiversity Enhancement

Prior to the first use of the development measures to maximise opportunities for biodiversity enhancement in and around development, in order to deliver a net gain for biodiversity, shall be submitted to and approved in writing by the Local Planning Authority. The submitted detail will recognise ecological features lost and include a measurable guide to demonstrate a net gain for biodiversity.

The approved measures shall be incorporated within the development prior to the developments first use unless an alternative phasing is agreed pursuant to this condition and maintained thereafter.

Reason: To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

Landscaping

Prior to the first occupation of the development a detailed hard and soft landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The landscape plan shall positively address the loss of the Category B Trees.

The approved hard surfacing shall be implemented prior to the first use and the approved soft 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 5 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.

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.

Detailed Design

Prior to the installation of all external materials within the development 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, doors, balconies, fascia's and eaves, and section / reveal detail to a scale of between 1:1 and 1:10 and means of opening where applicable.
3. Details of all balcony enclosures, including an assessment and proposed measures to afford due protection to the amenity of occupiers to the south of the apartment building.

The development shall proceed in full accordance with the approved detail.

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

Parking Provision

Prior to the first use of the development the parking facilities hereby approved shall have been provided in full unless a phasing plan for the provision has been submitted and approved pursuant to this condition, including the provision of the demarked disabled spaces, demarked visitor spaces, and identified electric charging facilities. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

Electric Charging Facilities

Notwithstanding details submitted in support of the application prior to the first occupation of any dwelling hereby approved details for the provision of at least one electric charging facility to serve that dwelling shall be submitted to and approved in writing by the Local Planning Authority.

The approved facilities shall be implemented in full prior to the first occupation of each dwelling and maintained thereafter.

Reason: To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Cycle Provision

Prior to the first occupation of the apartment building 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, and prior to the occupation of each dwelling the cycle storage facilities for that dwelling shall be completed and made available for the purpose of cycle storage to serve the dwelling. 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.

Visitor Cycle Parking

Prior to the first occupation of the apartment building a scheme for visitor cycle parking, located in a legible area of the site, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be completed and made available for the purpose of visitor cycle parking to serve the development prior to the occupation of the apartment building and 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.

Waste Provision

Prior to the first occupation of the apartment building 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 building. Once provided, the agreed storage arrangements shall be retained for the life of the development. The waste storage areas for each dwelling shall be completed and made available for each dwelling prior to its first use and maintained thereafter.

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

Waste Management Plan for the Apartments

Prior to the first occupation of the apartment building a Waste Management Plan for the building, setting out recycling and waste collections methods which follow the waste hierarchy to ensure locally established recycling targets at the that time are met, together with measures to review and respond to evolving targets, shall be submitted to and approved in writing by the Local Planning Authority. The approved WMP shall be implemented prior to the first occupation of the building and maintained at all times thereafter as a working document and strategy for the lifetime of the development.

Reason: To ensure that the private waste collection strategy for the apartment building, which will not receive waste collection from the local authority due to the distance of the collection point from the adopted highway network, accords with locally established recycling rates, to accord with Policies W1 and W2 of the Torbay Local Plan.

Travel Plan

Prior to the first occupation of the development a Sustainable Travel Plan that seeks to meet Policy requirements of a 30% modal shift to foot, cycle and public transport, with appropriate mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure sustainable travel modes are duly promoted and healthy lifestyles promoted, in accordance with Policies TA1, TA2, DE1 and SC1 of the Torbay Local Plan 2012-2030.

PD Removal

Notwithstanding the provisions of Classes A to E of Part 1 to Schedule 2, Article 3, 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, and no outbuildings shall be erected within the garden areas of the dwellings, with the exception of one incidental structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan, and the NPPF.

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
SS14 – Low carbon development and adaption to climate change
SC1 – Healthy Bay
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1 - Applications for new homes
HE1 - Listed buildings
DE1 - Design
DE3 - Development Amenity
DE4 – Building heights
ER1 - Flood Risk
ER2 - Water Management
ER3 – Contamination
ES1 – Energy
W1 - Waste management facilities

W2 – Waste Audit for major and significant waste generating development
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH1 – Housing allocations
TH8 - Established architecture
TH9 - Parking facilities
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
TTR2 - Sustainable Communities
THW3 – Community facilities
THW4 - Outside space provision
THW5 - Access to sustainable transport