

Friday, 3 December 2021

**PLANNING COMMITTEE**

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

**Monday, 13 December 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

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Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://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**

To confirm as a correct record the Minutes of the meetings of this Committee held on 11 October 2021 and 8 November 2021

(Pages 4 - 10)

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. **Coach Station, Lymington Road, Torquay P/2021/0765**

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 toilet, 3 new coach bays and associated public realm (description amended 10.09.2021)

(Pages 11 - 35)

6. **Hatfield House, Hatfield Road, Torquay, TQ1 3HF P/2021/0705**

Redevelopment of 31 apartments & office building with 43 no.1 & no.2 bed apartments, including age restricted & associated landscaping, access & parking.

(Pages 36 - 65)

7. **Waterside Holiday Park, Dartmouth Road, Paignton TQ4 6NS P/2021/0706** (Pages 66 - 92)  
Construct a new raised external decking structure to the north and east of the existing clubhouse building. Convert the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces. Convert the existing "Smugglers Inn" building to provide 2no holiday apartments to the upper floor, new glass balustrade to the perimeter of the roof terrace, staff accommodation to the lower floor. Use of land previously occupied by the external swimming pool for 4no static caravans. Demolition of existing lodge and dwelling adjacent to Dartmouth Road and the construction of 3no static caravans.
8. **21 Old Mill Road, Torquay, TQ2 6AU P/2021/1215** (Pages 93 - 113)  
Conversion of existing building into five houses, one flat and one maisonette, with demolition of existing classrooms to form four dwellings. Revision to approved Planning Application Nos. P/2019/0919 & P/2021/0550
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](mailto: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, 8 December 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)

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**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

## **Minutes of the Planning Committee**

**8 November 2021**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley (Vice-Chair), Kennedy, Mills, Jacqueline Thomas, Bye  
and David Thomas

(Also in attendance: Councillor Brooks)

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### **76. Apologies for absence**

It was reported that, in accordance with the wishes of the Conservative Group, the Membership of the Committee had been amended to include Councillors Bye and David Thomas instead of Councillor Barbara Lewis and Hill.

### **77. Minutes**

The Minutes of the meeting of the Planning Committee held on 11 October 2021, were deferred.

### **78. The Imperial Hotel, Parkhill Road, Torquay P/2021/0120**

The Committee considered an application for the renovation of the existing hotel to retain (up to) 111 bedrooms. Construction of spa, 26 residential apartments and 25 apartments from the conversion of bedroom wing with associated parking, access and landscape improvements.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were published on the Council's website. At the meeting, Mr Springer addressed the Committee against the application. Dr Horder addressed the Committee on behalf of the Torquay Neighbourhood Forum and Richard Maddock addressed the Committee in support of the application.

Resolved:

That:

Authority be delegated to the Divisional Director - Planning, Housing and Climate Emergency to grant conditional approval subject to:

- i) the conditions set out in the submitted report;

- ii) the following additional conditions:
  - a) prior to the commencement of development evidence shall be provided to the Local Planning Authority to demonstrate that the hotel service access shown on the plans hereby approved can be delivered and made available for use for vehicles servicing the hotel. The service road shall be provided and made available for use for hotel service vehicles prior to the occupation of any residential unit in Blocks B and D and shall be retained as a service route for the lifetime of the development;
  - b) prior to the commencement of development details shall be provided to the Local Planning Authority to demonstrate that all sizes of vehicles likely to use the service road access hereby approved can safely enter and exit the site in forward gear. Development shall take place in accordance with the approved details; and
  - c) prior to the new pedestrian access hereby approved being brought into use details of measures to secure adequate visibility for pedestrians using the access to ensure their safety shall have been provided to the Local Planning Authority and approved in writing. Development shall take place in accordance with the approved details;
- iii) the completion of a Section 106 legal agreement, including the following additional clause:
 

Two years after the occupation of the first residential unit the remaining hotel shall be valued on an open market basis. The actual performance of sales of the residential units will be made allowance for and any unsold units valued. If the combined value exceeds the agreed construction costs then a percentage (to be agreed prior to signing the 106) (the affordable housing %) of this value shall be paid to the Local Planning Authority as a deferred, off site commuted sum payment towards the provision of affordable housing; and
- iv) 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.

**79. Coach Station, Lymington Road, Torquay P/2021/0765**

This application was withdrawn.

**80. Land Adjacent To Roselands County Primary School, Lynmouth Avenue, Paignton TQ4 7RQ P/2021/0208**

The Committee considered an application for a change of use from green space to a fenced play area for use by Roselands County Primary School.



Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were published on the Council's website. At the meeting, Dr Fritz address the Committee on behalf of the Paignton Neighbourhood Forum. Mr Biddles and Mr Sutton addressed the Committee in support of the application.

Resolved:

Approved subject to:

- i) the conditions set out in the submitted report, with condition 1 being amended as follows:

#### Removal of Vegetation

No removal of hedgerows, trees or shrubs shall take place between 1st March and ~~31st August~~ **30 September** 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;

- ii) the following additional conditions:
  - a) the site shall be used for the purpose of outdoor sport, recreation and/or education only and notwithstanding the provisions of the Town and Country Planning General Permitted Development (England) Order, 2015 as amended, or any other document that may amend or replace it, no development falling within Class M of Part 7 of Schedule 2 shall take place without express permission from the local Planning Authority;
  - b) no external lighting shall be installed or used at the site unless otherwise agreed in writing with the Local Planning Authority; and
  - c) outside of Roselands Primary school opening hours and when the space is not required for use by the school the pedestrian gates to the site hereby approved shall be unlocked and access to the public permitted, except that access can be denied to dogs and persons accompanied by dogs; and
- iii) 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.

**81. Former Dairy Crest Depot, Parkfield Road, Torquay TQ1 4BH P/2020/0497**

The Committee considered an application for the demolition and redevelopment of a former dairy depot to form 55 residential dwellings (48 apartments and 7 dwelling houses), with associated parking and landscaping.

Prior to the meeting, Members of the Planning 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 Kenney addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- i) resolution of the dormer design within the dwellings to the satisfaction of the Local Planning Authority;
- ii) the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director Planning, Housing and Climate Emergency;
- iii) Section 106 legal agreement to secure deferred obligations for Affordable Housing and loss of employment land funding to deliver a Traffic Road Order adjacent to the site; and
- iv) the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

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Chairman

## **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 toilet, 3 new coach bays and associated public realm (description amended 10.09.2021)
Application Number	P/2021/0765
Applicant	Torbay Council
Agent	MTA Chartered Architects Ltd
Date Application Valid	02.08.2021
Decision Due date	27.09.2021
Extension of Time Date	13.12.2021
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 the TDA
Planning Case Officer	Jim Blackwell

**Location Plan**



## **Recommendation**

Approval.

## **Statutory Determination Period**

27<sup>th</sup> September. Extension of time agreed until 13<sup>th</sup> December 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 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 single public mobility WC.
- 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 intended future occupant's light industrial uses.
- Updated Transport Assessment.
- Swept path survey drawing, vehicle tracking and pedestrian movement plan.
- Amended layout to show cycle storage within the units.
- Noise Assessment.
- EMES and CEcoMP.
- The original two WCs were relocated toward the north unit and reduced to a single WC. A new ramp installed to achieve a further increase of 200mm in levels.
- Improved ramp alongside Unit 1 on the Lymington Road elevation.
- The positioning of the door to unit 1, along the Lymington Road elevation moved to accommodate the improved ramp.
- Unit 3 has slightly decreased in size due to below ground services.
- A covered public cycle rack is proposed to the southern edge of the site adjacent the Innovation Centre.

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:**

This response follows that submitted by WSP on behalf of the Highway Authority on 18th October 2021. This response provides a review of the updated information submitted recently. The updated information being considered includes revised layout drawings, vehicle tracking information, pedestrian route clarification, and an updated transport assessment.

The particular concern raised previously was in relation to the loss of a coach bay. The updated Transport Assessment confirms (at 3.1.4) that further assessment has taken place which identified that on the current timetable provision there is only one bay needed at any one time for scheduled National Express services. There is acknowledgement that on occasion a service could be running late or arrive early and so a second bay supports that. It is also recognised that there is no formal objection from National Express, although the Confederation of Passenger Transport did raise a concern previously. It is important to acknowledge that at times there may be an additional coach service, potentially requiring a third bay, whether in relation to international travel or another operator as was the case prior to March 2020 and which could be re-instated.

However, based on the above demand considerations and assessment of need provided, the objection is removed. The team recognise the additional benefit too of improved waiting facilities, provision of an international bay and coach information, new toilet facilities and improved CCTV and lighting.

The updated information also clarified that in addition to the cycle provision within the new units, a cycle shelter will be provided as a replacement for the existing uncovered provision on site. This is a positive enhancement supporting the Council policies to encourage active travel as a priority.

The disabled parking bays have been relocated to be adjacent to the crossing point, making that a safer route.

Pedestrian routes around the site are clarified and improved from the current situation.

Electric charging will be provided both for the individual units and within the wider site. The location of those within the wider site may vary from that indicated.

Please note that the Appendices of the Transport Assessment do not show the cycle parking shelter or the revised toilet location, although both are shown on the proposed site plan 3844.P.AL.02 rev C.

**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:**

No objection subject to a standard condition.

**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:**

Environment Agency position

We have reviewed the response to our comments the TDA. We maintain our objection to the proposed development on the grounds of flood risk and provide the reason for this position below.

As outlined in our previous response, 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 for position – Flood Risk

In response to the letter from TDA, we provide the following comments.

Raised levels

The levels of the areas associated with the provision of coach bays/shelters is very much significant because even minor raising may have a very measurable increased flood risk to third parties. Upon closer review of the submitted plans, it is evident that the raised areas would occupy a well-defined flow conveyance route. Such development could therefore

affect the ability of flood waters to pass downstream, as it currently can, in certain circumstances.

#### Accessible Toilets

We recognise the other factors on site by which the applicant is constrained, such as the access to utilities, however, the fact remains that the 'Public Mobility Toilets' 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 draw your authority's attention to the attached Table 13.1 of the FRA Guidance New development R&D Outputs report by Defra/Environment Agency 'Guidance for New Developments' FD2320/TR2 which highlights that flooding at the location of the 'New Public Mobility Toilets' has the potential to cause 'Danger for All'. We therefore reiterate that we strongly recommend that this element be relocated to an area that is safe from the risks posed by flooding. In strictest terms, the risk posed to this part of the proposal could be grounds for maintaining an objection, and potentially recommending refusal given the risk to life flooding poses.

#### Land Contamination

Our previous response indicated that, if our other concerns can be overcome, we would seek to recommend that planning conditions relating to a remediation strategy and piling are included on any decision. We note the response from TDA however our position on this matter remains. If the flood risk issues are addressed, we can provide suggested wording for the conditions.

#### Overcoming our objection

We consider that there is a disparity between the submitted flood risk assessment (FRA) and the other plans within the planning application, and therefore, we advise that the applicant of the following two options for consideration:

1. The areas associated with the provision of coach bays/shelters of the proposal are not raised above existing levels i.e. retaining the current important conveyance and storage function that the area currently provides, or,
2. The FRA is revised to reflect the raised nature of the proposed coach bay areas so that a fully informed decision regarding the risk of flooding to adjacent third parties, including residential property can be made.

In addition, we advise that the proposed Public Mobility Toilets should be relocated to avoid the severe flood risk, as discussed above.

**Please note that the Environment Agency have been consulted on revised plans and their response will be reported to the Planning Committee**

#### **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 follows 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 WC 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.

There have been a number of minor changes to the proposal over the lifetime of the application. WC relocated and reduced to a single WC. A new ramp installed to achieve a further increase of 200mm in levels.

- Improved ramp alongside Unit 1 on the Lymington Road elevation.
- The positioning of the door to unit 1, along the Lymington Road elevation moved to accommodate the improved ramp.
- Unit 3 has decreased in size from 1251 square feet on the ground floor and 1025 square feet on the mezzanine, to 1227 square feet on the ground floor and 1000 square feet on the mezzanine due to below ground services.

The amendments are relatively minor and therefore considered acceptable. The design merits of the proposal are dealt with below.

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 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 also be similar to the adjacent Innovation Centre, although natural stone cladding is proposed on the ground floor, rather than render. Quality, robust materials have been included within the proposed public realm, coach bays and the mobility WC. A new public covered cycle rack is also proposed and a condition has been included to secure further details. Finally, in order to be consistent with the new bus and coach shelters being rolled out across Torbay, a condition has been included to ensure further details are provided and agreed in writing.

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, due to their similar age and character of frontage detail.

These issues are 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.

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.

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 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 and crossing provision.
- Secure cycle parking.
- Travel Plan.
- Disabled parking.
- Electric Vehicle Charging Points.
- Public cycle parking.

There are currently five bicycle hoops located on site, which could accommodate up to ten bicycles. However, they are unprotected, exposed to the elements and therefore prone to vandalism. A new covered bike shelter would be provided between the proposed development and the existing Innovation Centre, to the south of the site. This would be overlooked and provide improved security, providing at least six bicycle spaces for visitors to the site.

The proposal would reduce the provision of coach spaces from four to three. The Strategic Transport Team and Confederation of Passenger Transport previously objected to this reduction. However, the updated Transport Assessment confirms that further assessment has taken place which identified that on the current timetable provision there is only one bay needed at any one time for scheduled National Express services. There is acknowledgement that on occasion a service could be running late or arrive early and so a second bay supports that. It is also recognised that there is no formal objection from National Express, although the Confederation of Passenger Transport did raise a concern previously. Therefore, based on the demand considerations and assessment of need provided, the objection has now been removed.

In conclusion, when taking the proposal 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 WC, public cycle parking, shelters and new wayfinding board with coach timetables, it clearly demonstrates 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 and 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 the remainder 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 has no objection in principle to the proposed development, but required further information on the site levels. The levels of the areas associated with the provision of coach bays/shelters is considered significant because even minor raising may have a very measurable increased flood risk to third parties. It should be noted that the car park has a high spot at approximately the southern extent of the proposed site. The land to

the north of this falls naturally in a northerly direction against the general topography of the catchment.

The Environment Agency have also raised an objection to the proposed WCs as originally proposed as they 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. As a result, the proposal has been amended to reposition the toilet and reduce it to a single unit. A new ramp is also proposed to achieve a further increase of 200mm in levels, which would provide 100mm freeboard. This is expected to overcome the objection from the Environment Agency.

The scheme has been amended in response to objections from the Environment Agency, in particular the toilets have been reduced in number, relocated and raised up above flood level. To remove the kerbs to the coach bays as suggested by the Environment Agency would have negative impacts for users of the site; officers also consider that the detailed site topography may not have previously been made clear to the Environment Agency and that in fact there is limited risk arising from the proposed development. The Environment Agency have been reconsulted on these amended proposals and the officer recommendation for approval is subject to confirmation from the Environment Agency that they have no objection to the amended proposals.

As the site is a former coach 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.

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 number 31.
- Secure cycle storage will be provided within the units.
- Cover public cycle parking will be provided.

- 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**

The site is in an area sensitive to flooding and officers have therefore fully considered the sensitivity of the development. Due to the size (0.24 hectares), the scale, nature and location of this development it 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 subject to the consultation response from the Environment Agency, is acceptable in terms of 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 WC, shelters and new wayfinding board with coach 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 (including measures to prevent

pollution/contamination in the event of piling), 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. The approved scheme shall be implemented in full.

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 commencement of development details of the surface water drainage being shall be submitted to and approved by the local planning authority.

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
- No works take place unless a suitably qualified ecologist is present on site.

The development shall be carried out in accordance with the approved Construction/Demolition Management Plan which shall be implemented in full

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 boxes/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. Any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species.

Reason: In the interests of visual character of the area in accordance with Policies DE1 and C4 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 trees to the east of the site will not be detrimental 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 protection:**

The trees on the east boundary 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 are adequately protected while development is in progress, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF.

**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 stone,
2. Window and door materials, colours and profiles,
3. The covered public cycle rack,
4. The wayfinding and coach information sign board.

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.

**Coach station shelters:**

Prior to installation, details of the proposed coach station shelters 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 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.03 rev A received 24 November 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 A, 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.

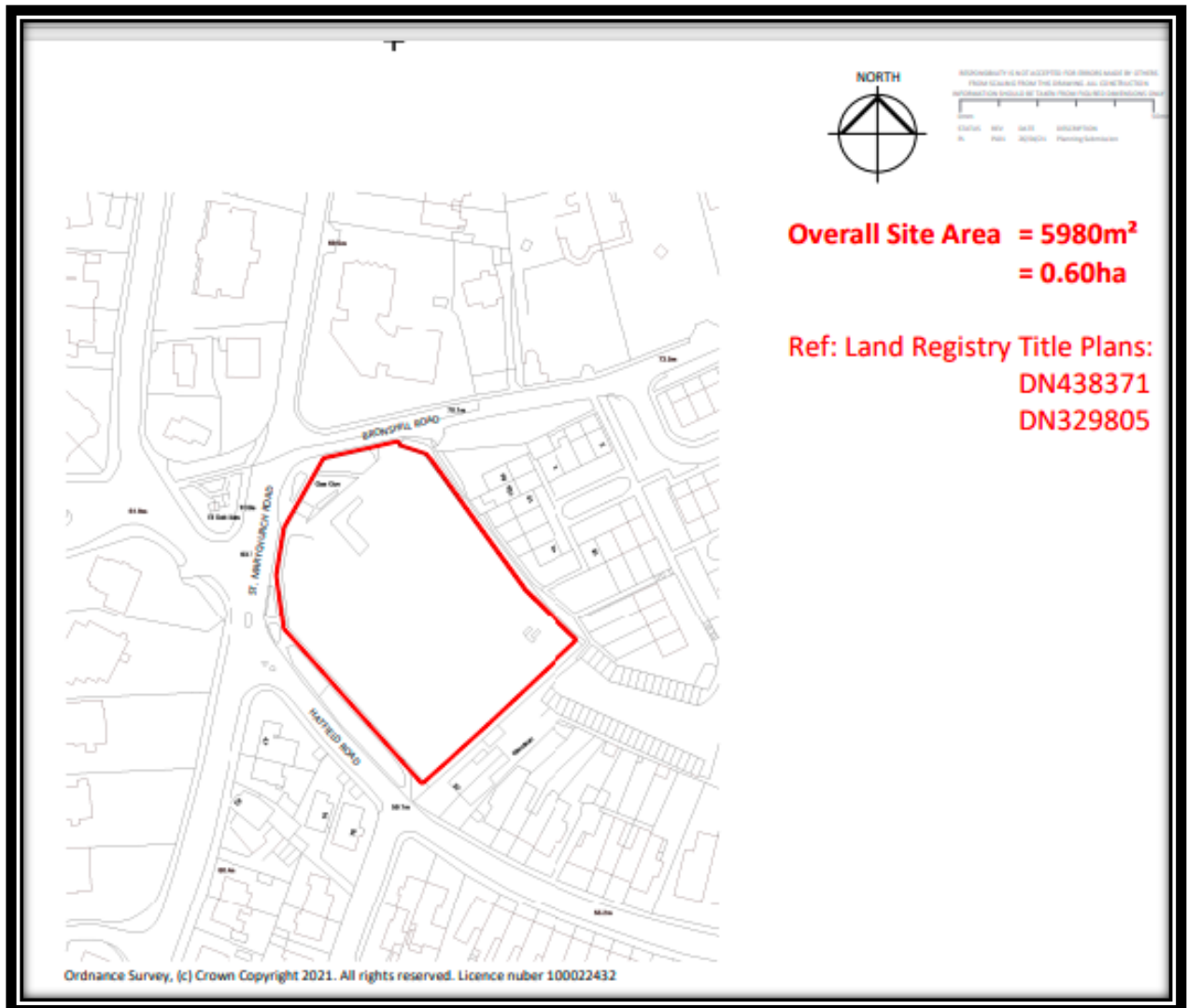
TS1 – Sustainable Development.

TS4 – Support for Brownfield and Greenfield development.

# Agenda Item 6

## TORBAY COUNCIL

Application Site Address	Hatfield House, Hatfield Road, Torquay, TQ1 3HF
Proposal	Redevelopment of 31 apartments & office building with 43 no.1 & no.2 bed apartments, including age restricted & associated landscaping, access & parking.
Application Number	P/2021/0705
Applicant	Sanctuary Affordable Housing Ltd
Agent	Situ8 Planning Consultancy
Date Application Valid	21.06.2021
Decision Due date	20.09.2021
Extension of Time Date	20.12.2021
Recommendation	<p>Approval: Subject to;</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>The completion of the Nomination Agreement.</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 Planning Application
Planning Case Officer	Mr. Alexis Moran



### Site Details

The site lies at the junction of Hatfield Road, St Marychurch Road and Bronshill Road. The site previously housed 31 affordable apartments and an office building, but these have now been demolished and the site has been cleared.

The site is formed from the former grounds of the early Victorian villa of Hatfield House built in c.1845 and demolished in 1963.

Henbury Close is to the east of the site, this is a small housing development of red brick terraced houses. To the north is a three-storey block of flats in a yellow render with red brick balconies, red brick window detailing and string courses. The Upton Conservation Area lies to the west of the site (the site is not within the conservation area) where there are a number of fine stuccoed Italianate villas. To the south of the

site there is a high limestone wall which bounds Hatfield Road and emphasises the level change from the north to the south of the site.

In terms of Local Plan designations, the site is within the Community Investment Area and is not designated within the Torquay Neighbourhood Plan.

### **Description of Development**

The application seeks consent to replace 31 affordable apartments and an office block with 43 affordable rented apartments including a mix of 15 x one and 28 x two bed apartments housed within 6 small blocks 5 of which are to be 3 storeys in height. Block D is made up of 9 apartments which are all age restricted.

Accommodation is split over the 6 buildings as follows;

Block A 6 x 2 bed 3 person

Block B 2 x 1 bed 2 person & 4 x 2 bed 3 person

Block C 3 x 1 bed 2 person & 6 x 2 bed 4 person

Block D 3 x 1 bed 2 person & 6 x 2 bed 4 person

Block E 3 x 1 bed 2 person & 6 x 2 bed 4 person

Block F proposes 4 x 1 bed apartments and in the style of a pair of semi-detached houses.

In total, the site will provide 38 car parking spaces inclusive of disabled parking and visitor parking, more than 20% of the spaces to have dedicated electric car charging points. A secure, covered mobility scooter store consisting of nine spaces is proposed adjacent to the proposed nine age restricted dwellings which are in Block D. Forty-two cycle racks are proposed in secure covered cycle stores on site.

### **Pre-Application Enquiry**

DE/2018/0070 - Redevelopment of 21 apartments and office building with 50 affordable dwellings and associated access and parking. Feedback was supplied to the applicant mainly focusing on design, conservation, affordable housing and highways, which has led to the submission of this planning application.

### **Relevant Planning Policy Context**

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

#### Development Plan

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

#### Material Considerations

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

#### **Summary of Representations**

One letter of objection has been received which relates to overlooking, ecology, noise and pollution.

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

Torbay Council Senior Tree and Landscape Officer – No objection subject to compliance with the submitted Tree Protection Plans and a pre-commencement AMS for the sequence of operations and site inspection frequency.

Torbay Council Drainage Engineer – No objections on drainage grounds to planning permission being granted for the development provided the surface water drainage is constructed in accordance with the hydraulic design and drawings included in the submitted drainage assessment report dated September 2021.

Senior Environmental Health Officer – No objection subject to the submission of a Construction Method Statement.

Torquay Neighbourhood Forum – No comment received

SWW – No objection.

Police Liaison Officer – no objection, it is recommended that the development complies with 'Secured by Design'.

Housing Delivery Officer - Council planning policy is that 20% of the units delivered on this site should be affordable, of which, at least 1/3 should be for social rent, 1/3 affordable rent and up to 1/3 shared ownership. This tenure mix is not being provided as part of this application although this is mitigated by the fact that 100% of the homes being delivered are affordable rather than only 20%.

Torbay Council Highways Consultant – No objection.

## **Key Issues/Material Considerations**

Planning Officer Assessment

1. Principle of Development
2. Design and Visual Impact (including the impact upon the setting of the adjacent Conservation Area)
3. Impact on Residential Amenity.
4. Impact on Highway Safety.
5. Ecology and Biodiversity
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change

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

In terms of context the site is a 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.

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.

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.

There is therefore 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 following sections of this assessment.

## **2. Design and Visual Impact (including the impact upon the setting of the adjacent Conservation Area)**

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.

The development consists of building heights of predominantly three storeys (12m in height) with one building of two storeys. In terms of scale the apartment buildings adequately respect the height of the adjacent dwellings and accords with the building heights in the local area, it is noted that the previous development on the site consisted of a large 3 storey building to the north of the site with two storey buildings to the south.

The design of the buildings is considered to be of good quality with pitched roofs to break up their massing, the modern form of development is considered to be a good fit for this location.

In terms of detailed design and materials the apartment blocks, the proposed buildings are to be finished with a mix of buff, grey and red brick with render on the three most prominent elevations which aid in breaking them up and provides some context with the buildings in the adjacent conservation area.

The proposed development as amended seeks to respect the existing character of the area and has regard to the vernacular of materials in this location.

The building frontages provide active frontages with minimal use of blank walls, particularly in prominent locations and corners.

The use of a variety of colours and materials provides interest in the street scene and aids in providing identity to the development site.

Bearing the above points in mind the proposal is deemed to comply with Policy DE1 (Design) of the Local Plan which, amongst other criteria, requires development to be uncluttered and attractive, acknowledge local character and develop distinctive character in townscape and landscape terms, relate to the surrounding built environment in terms of scale, height and massing and have a clear urban structure and grain that integrates with the surrounding context.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography 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 appears to respond effectively to the topography of the site.

It is considered that the proposed appearance, landscaping, layout and scale would not result in unacceptable harm to the character of the area. Based on the information provided, the proposed development is, for the reasons above, considered to demonstrate a satisfactory form of development in terms of layout.

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 there is a Grade II Listed Building some 85m to the south-west of the site. Given this context, the proposal is likely to have a positive impact the setting of the Listed Building and the proposal to develop the site is considered to represent the opportunity to enhance the view along St. Marychurch Road through the addition of a well designed form of development on what is currently a vacant site.

The site is adjacent to the Upton conservation area and the application is accompanied by a Heritage Impact Assessment. The assessment notes that the use of render on principal elevations reflects the conservation area and that the addition of a good quality designed scheme is an improvement on the streetscene, particularly given the poor quality of the previous development on the site. The assessment concludes that the proposal would preserve and enhance the setting of the conservation area. The Officers view accords with these findings and that the form of development, its scale and the use of materials would preserve/enhance the character of the conservation area.

The proposal is deemed to be 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. Impact on Residential Amenity**

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.

These standards advise that 2 bed apartments with one double bedroom and one single bedroom should have an internal floor area of 61sqm, 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 regards to 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 balconies, private gardens and a communal greenspace that accumulatively exceeds the policy-guided minimum of 430sqm, which provides an acceptable level of outdoor space for future occupants of the apartments.

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 bin store areas. The proposed bin storage facilities are considered acceptable and compliant with Policy W1.

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

One letter of objection has been received which relates to overlooking, noise/anti-social behaviour, ecology and pollution. The objector's property is approximately 25m from site with a road in-between and the existing trees to the south of the site are to be retained. The distance between the properties is considered to be sufficient enough to result in an acceptable level of intervisibility. The redevelopment of the site will result in increased activity and surveillance which is likely to have a positive effect on anti-social behaviour in the vicinity.

The closest residential property to the rear (north-east) of the site is on Henbury Close and is 21m from the proposed buildings on site. The relationship between this property and the proposed development would not be significantly different from the previous relationship on site i.e., a three storey building in this location and the impact on residential amenity is considered to be acceptable in terms of overlooking, overdominance and loss of light. The closest property to the south-east is on Hatfield Road, the relationship of the proposed building and that property would be a 15m side to side affiliation. The proposed building on this part of the site would be further to the south of the site than the previous building and would be in place of the previous car park. Notwithstanding this, the 15m side to side distance is considered one which is acceptable in an urban environment. The proposal is therefore deemed to have an acceptable impact on the residents of the closest property on Hatfield Road. On site ecology will be considered later in this report.

The construction phase will naturally result in some temporary impacts, including pollution from dust and machinery, however this can be reduced by a condition requiring the submission of a Construction Method Statement which includes a restriction on the hours of construction and requires details of delivery and construction movement and parking to be submitted and approved by the Local Planning Authority prior to development.

In summary the proposal is deemed to provide a satisfactory form of development in terms of protecting the amenities of adjacent and future occupiers, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy THW4 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

#### **4. Impact on Highway Safety**

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

108). It also furthers (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

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 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.

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.

Vehicular and pedestrian access to the site will be achieved through an upgrade of the existing access from Bronshill Road. Two new pedestrian access points will be provided to link in with the existing footway on St Marychurch Road and Hatfield Road respectively.

The site is located approximately 900m north from Torquay Town Centre which provides access to a number of commercial, employment and health services for potential future users of the site. There are footways, street lighting and pedestrian infrastructure located within the proximity of the re-development site, enabling safe and continuous pedestrian movement between the site and Torquay.

Bronshill Road is categorised as an advisory cycle route with many roads within the local highway network being well lit and subject to a 30mph speed restriction. The closest bus stops are located on St Marychurch Road, which are approximately 35m and 75m, from the site respectively.

Bearing these points in mind it is considered that the site is situated within a sustainable location with access to public transport facilities and a range of amenities that can be accessed by walking/cycling to Torquay Town Centre.

It is proposed to upgrade the existing access off Bronshill Road and the Councils Highways consultant has confirmed that the visibility splays for the upgraded access are considered to be acceptable.

The applicant has undertaken a Stage 1 Road Safety Audit which identified four problems with the design proposals. The designer's response has clarified that each of the identified issues has been addressed. The applicant has submitted a swept path analysis which illustrates that refuse vehicles, fire engines and a 3.5t panel van can access the site, manoeuvre and egress the site in a forward gear.

The proposed internal layout of the site will not be adopted. It is proposed that, following consultation with relevant stakeholders, the site will be serviced internally and will be designed to accommodate the servicing from the Torbay Council Waste Management Company.

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 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 addition there should be 10% of spaces suitable for disabled users

The proposal includes a total of 38 car parking spaces, which includes two disabled parking bays, for the re-development. One car parking space is to be provided per flat with one car parking space provided for five age-restricted flats. The parking levels proposed are in accordance with the Torbay Local Plan Appendix F and the Councils Highways Consultant has confirmed that the level of parking is acceptable.

The development proposes nine parking spaces with electrical charging points which amounts to 27% and therefore is more than the 20% requirement.

The applicant has proposed a total of 48 cycle parking spaces which exceeds the requirement of 34 spaces. A total of nine mobility scooter parking spaces has been proposed for the age restricted flats in a secure and covered space.

The proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1, TA2 & TA3 of the Torbay Local Plan, Policy TH9 of the Torquay Neighbourhood Plan and the guidance within the NPPF.

## **5. Ecology & Biodiversity**

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

The Ecological Assessment submitted with the application considered that the site is of negligible ecological value and makes the following recommendations which will be secured by condition:

- Any areas of new planting/landscaping should consist of native wildlife attracting species of local provenance, with appropriate aftercare and management to ensure that these areas are maintained.
- Management of underutilised areas of amenity grassland should be altered to create a wildflower meadow with a more ecologically diverse sward, which will attract a greater variety of species to the site. This would comprise of allowing the appropriate areas of grassland to remain uncut from April until late August thereby allowing floral species to flower and set seed.
- Bird boxes suitable for different species of birds should be installed on mature trees and/or incorporated into the buildings proposed for the site for a range of woodland birds.
- Bat boxes and/or bat roosting units for different species of bats should be installed on retained trees or on or within the buildings proposed for the site.

In light of the foregoing the proposal's ecological impacts are considered acceptable, having regard to Policy C4 and NC1 of the Torbay Local Plan.

## **6. Flood Risk and Drainage**

The NPPF's 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 proposed drainage strategy has been designed in accordance with the National Planning Policy Framework (February 2019) and National Standards for Sustainable

Drainage Systems (Defra, 2011) and Torbay Council's SuDS Design Guide, which requires that consideration be given to 'discharge to ground' first, 'discharge to waterbody' second, and finally, 'discharge to sewer' if no other options are available.

Infiltration to the sub-strata has been ruled out by the ground investigation, which found that the site is mostly underlain by impermeable mudstone and sandstone bedrock and clay head within the superficial deposits. A small area of potentially permeable strata in the form of limestone was observed in the northern corner of the site, however, as the site's levels fall rapidly to the south it is not suitable for drainage.

As a discharge to ground is not considered viable and there are no nearby watercourses, surface water run-off will discharge to the public sewer network in Hatfield Road. The site is located within a Critical Drainage Area and it has been agreed with South West Water that run-off generated on the proposed development will be limited to the 1 in 10-year greenfield run-off rate or 1.5l/s, whichever is higher. As the 1 in 10 year greenfield run-off rate is lower than 1.5l/s, the discharge rate will be set to 1.5l/s Run-off generated on the site's roofs and paved areas will drain into a piped drainage network via gullies and porous paving before being conveyed to an attenuation tank. The peak rate of discharge to the existing sewer will be controlled via a flow control device limited to 1.5 l/s. The proposed drainage system will be designed to accommodate up to and including the 1in100yr storm event with an additional 40% allowance for climate change and the Council Drainage Engineer has confirmed that this is acceptable.

## **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.

The Energy Statement advises that the tight financial constraints associated with social housing provision means that the most effective method for reducing energy (& carbon) use is to take a fabric-first approach.

This means that it is the construction material, quality and design that provide the performance of the building, not technology installed. This approach proposes maximising airtightness to reduce heat-loss, the use of high insulation and optimising solar gain through the provision of openings and shading. This approach also includes optimising natural ventilation, using the thermal mass of the building fabric and using heat created from occupants. This is considered to aligned with the Energy Hierarchy, with focus on sustainable building design (reduction of energy consumption at source) and provision of energy efficiency measures.

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

### **Sustainability**

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

#### **The Economic Role**

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

Once the dwellings are 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 43 affordable units. Given the NPPF priority to significantly boost the supply of housing, in this instance, 100% affordable housing, the additional dwellings to be provided must carry significant weight in this balance.

The site is currently vacant 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 and the provision of the number of social units proposed, 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, 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 and mitigating flood impacts. There is an environmental benefit to providing 43 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.

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

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

### **Sustainability Conclusion**

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

### **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.

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

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

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

### **Local Finance Considerations**

The applicant is entering into a Nominations Agreement with the Council which specifies that 100% of the dwellings to be constructed on Site shall be Affordable Dwellings and shall not be Occupied other than as Affordable Housing. The Nominations Agreement will need to be completed prior to planning permission being granted.

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

The proposal is considered a good use of a redundant brownfield site and would provide much needed housing to help meet local need.

The proposal is 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.

The proposal is considered acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; would provide an adequate standard of living accommodation and is acceptable in terms of access, ecology and flood risk matters.

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

### **Officer Recommendation**

Approval: Subject to;

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

The completion of the Nomination Agreement.

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

### **Conditions**

#### **FRA / Drainage**

The development shall be carried out in accordance with the approved Drainage Assessment (submitted September 2021) which shall be implemented in full prior to the first occupation of the development and retained and maintained for the lifetime of the development.

Reason: To reduce the risk of flooding to the proposed development and 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**

Prior to the first development on site, other than ground clearance, a site specific Construction Management Plan shall have been submitted to and 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.
- Details of delivery and construction movement and parking
- 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.

The development shall be carried out in accordance with the approved Construction Management Plan which shall be implemented in full.

Reason: This information is required pre-commencement in the interests of highway safety and local neighbour amenity and in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

### **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. Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development.

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 occupation 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**

Prior to the first occupation of the development hereby approved, a scheme of bat and bird boxes, in accordance with the approved ecological survey, shall be submitted to the Local Planning Authority for approval and the approved scheme shall be implemented. The approved details shall be retained for the lifetime of the development.

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

### **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.

### **Parking Provision**

Prior to the first use of the development the parking facilities, including the electrical charging facilities and disabled parking, hereby approved shall have been provided in full unless a phasing plan for the provision has been submitted and

approved pursuant to this condition, in which case they shall be provided in accordance with the phasing plan, 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 exclusive use of the development 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.

### **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. 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.

### **Refuse and Recycling**

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

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

### **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.

### **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**

The construction of the development shall be carried out in strict accordance with the energy reduction measures proposed in the Energy Statement hereby approved and shall be maintained as such for the lifetime of the development.

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.

### **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 landscaping plan shall include the following:

- Any areas of new planting/landscaping should consist of native wildlife attracting species of local provenance, with appropriate aftercare and management to ensure that these areas are maintained.
- Management of underutilised areas of amenity grassland should be altered to create a wildflower meadow with a more ecologically diverse sward, which will attract a greater variety of species to the site. This would comprise of allowing the appropriate areas of grassland to remain uncut from April until late August thereby allowing floral species to flower and set seed.

The approved hard surfacing shall be implemented prior to the first use of the development and the approved soft landscaping shall be implemented in full within the first planting season following the first occupation of the development, unless an alternative timetable for delivery is previously agreed in writing by the Local Planning Authority

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.

The landscaping shall be managed for the lifetime of the development in accordance with the approved landscaping scheme.

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.

### **Materials**

Prior to their installation details, including samples, of all external materials within the development shall be submitted to and approved in writing by the Local Planning

Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Details shall include the following:

- Brick type and colour
- Render type, finish and colour
- Roof tiles
- Fascias and bargeboards
- Rainwater goods
- Windows and doors, including materials, reveals, profiles and cills
- Balcony railings

Reason: To ensure an acceptable form of development in the interests of the character and appearance of Belgravia Conservation Area and the streetscene in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Tree Protection Measures**

Prior to the commencement of development the tree protection measures outlined in approved tree protection plan 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.

### **Accordance with energy statement**

The development shall be undertaken in strict accordance with the approved energy statement at all times.

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

### **Levels**

The development hereby approved shall be constructed in accordance with detailed drawings, which shall previously have been submitted to and approved by the Local Planning Authority, showing the datum level at which it is to be constructed in relation to an agreed fixed point or O.S. datum and the finished ridge level.

Reason: To enable the Local Planning Authority to fully assess the impact of the proposal and ensure a satisfactory form of development that is in keeping with the area, does not impact upon the neighbouring existing dwellings, and to ensure that the proposal accords with DE1 of the Torbay Local Plan 2012 to 2030.

### **Outdoor Recreation**

Prior to the first occupation of the development hereby approved, the outdoor recreation spaces across the site shall be made available and accessible to all residents at all times.

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

### **Informative(s)**

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

### **Relevant Policies**

SS3 - Presumption in favour of sustainable development

SS8 - Natural Environment

SS10 - Conservation and Historic Environment

SS11 - Sustainable Communities Strategy

SS12 - Housing

SS13 - Five Year Housing Land Supply

SS14 - Low Carbon Development and Adaptation to Climate Change

W1 - Waste management facilities

W2 - Waste audit for major and significant waste generating developments

W3 - Existing waste management facilities in Torbay

TA1 - Transport and accessibility

TA2 - Development access

TA3 – Parking Requirement

DE3 - Development Amenity

ER1 - Flood Risk

ER2 - Water Management

ES1 - Energy

C4 - Trees, hedgerows and natural landscape features

NC1 - Biodiversity and Geodiversity

H1 - Applications for new homes

H2 - Affordable Housing

DE3 - Development Amenity



SC1 - Healthy Bay  
SC3 - Education, skills and local labour  
HE1 – Listed Buildings  
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

## TORBAY COUNCIL

Application Site Address	Waterside Holiday Park Dartmouth Road Paignton TQ4 6NS
Proposal	Construct a new raised external decking structure to the north and east of the existing clubhouse building. Convert the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces. Convert the existing "Smugglers Inn" building to provide 2no holiday apartments to the upper floor, new glass balustrade to the perimeter of the roof terrace, staff accommodation to the lower floor. Use of land previously occupied by the external swimming pool for 4no static caravans. Demolition of existing lodge and dwelling adjacent to Dartmouth Road and the construction of 3no static caravans.
Application Number	P/2021/0706
Applicant	Park Holidays UK Ltd
Agent	Mr Ian Butter - Rural & Urban Planning Consultancy
Date Application Valid	19/10/2021
Decision Due date	14/12/2021
Extension of Time Date	Not applicable
Recommendation	Conditional approval subject to: <ul style="list-style-type: none"> <li>• The resolution of any issues relating to flood risk to the satisfaction of Officers;</li> <li>• Completion of a S.106 unilateral undertaking for the holiday units towards mitigating in-combination recreational impacts on the SAC;</li> <li>• 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.</li> </ul>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because the proposed development is on land owned by Torbay Council and the application has received objections.
Planning Case Officer	Emily Elliott

### Location Plan:



### **Site Details**

The site is Waterside Holiday Park which is located off of the Dartmouth Road, and accessed from Waterside Road, Paignton. Waterside Holiday Park is approximately 5.85 hectares and consists of over 200 caravan/lodges with the main clubhouse, outdoor swimming pool and a separate two storey building called 'Smugglers' which comprises a restaurant to the upper floor and back of house spaces to the lower ground floor. The main clubhouse houses the main bar, entertainments hall, arcade and ancillary facilities on the upper ground floor. The lower ground floor consists of the sales office, reception/shop and back of house spaces.

### **Description of Development**

The proposal seeks permission for:

- The construction of a new raised external decking structure to the north and east of the existing clubhouse building.
- The conversion of the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces.
- The conversion of the existing "Smugglers Inn" building to provide 2no holiday apartments to the upper floor, new glass balustrade to the perimeter of the roof terrace, and staff accommodation to the lower floor.
- Use of land previously occupied by the external swimming pool for 4no static caravans.
- Demolition of existing lodge and dwelling adjacent to Dartmouth Road and the construction of 3no static caravans.

### **Pre-Application Enquiry**

Not applicable.

### **Relevant Planning Policy Context**

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

#### Development Plan

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

#### Material Considerations

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

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

### **Relevant Planning History**

Extensive planning history relating to the site.

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. 2 letters of objection have been received.

Concerns raised in objection include:

- Overdevelopment
- Privacy/overlooking
- Traffic and access
- Noise

### **Summary of Consultation Responses**

#### **Brixham Peninsula Neighbourhood Forum:**

No response received.

#### **Broadsands, Churston and Galmpton Neighbourhood Forum:**

No response received.

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

No response yet received.

#### **Torbay Council's Tree and Landscape Officer:**

No obvious arboricultural issues are raised however owing to the proximity of trees to some of the buildings please can we seek assurances that no trees are proposed for removal. A landscape scheme will need to be submitted and approved prior to commencement.

#### **Torbay Council's Environmental Health Officer:**

No objections.

#### **Police Designing-Out Crime Officer:**

The police would like to raise the following consideration having reviewed the documents and plans.

Crime, fear of crime, ASB and conflict are less likely to occur if the following attributes of Crime Prevention through Environmental Design (CPtED) are also considered in the design and layout of the proposed scheme:-

- Access and movement (Permeability) - Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.
- Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict
- Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked.
- Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.
- 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 in the present and the future.

#### Site specific details

Whilst the proposed clubhouse will potentially benefit from higher levels of natural surveillance from increased footfall and staffing numbers, this obviously will not be the case outside of opening hours. Therefore, a sensible and practical level of security, which will not adversely affect the efficient running of the centre, is essential to help create a successful and sustainable visitor experience. Doors to private areas such as staff offices, safe, stock and plant rooms should have a form of access control. External doors and windows are recommended to be independently security tested and certificated products to an appropriate nationally recognised standard such as PAS24:2016 or similar. The provision and use of CCTV fits well within the overall framework of a security management plan but it should not be relied upon as a panacea to all criminal and anti-social behaviour. To deter and prevent unauthorised access to the building when not in use, it is recommended that enhanced security standards and specifications for doors and windows are considered, especially given the sites isolated rural location, as even the best CCTV and lighting can easily be undermined by an offender concealing their identity by wearing a hood, hat, mask etc. It is my understanding that the building itself will also be fitted with a monitored intruder alarm. Any proposed lighting scheme should be co-ordinated with any CCTV installation. Access beyond the reception area to offices/staff facilities, store rooms, plant rooms, cleaning and chemical stores must be limited to 'staff' only by way of suitable access control, for example, a simple keypad entry system.

#### **South West Water:**

Proposal: Construct a new raised external decking structure to the north and east of the existing clubhouse building. Convert the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces. Convert the existing "Smugglers Inn" building to provide 2no holiday

apartments to the upper floor, new glass balustrade to the perimeter of the roof terrace, staff accommodation to the lower floor. Use of land previously occupied by the external swimming pool for 4no static caravans.

With reference to the planning application at the above address, the applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

#### Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

#### Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services. For more information and to download the application form, please visit our website:  
[www.southwestwater.co.uk/developers](http://www.southwestwater.co.uk/developers)

#### Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed within the Flood Risk Assessment to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

Having reviewed the current information in the application form, with regards surface water disposal for the development, please note that, should infiltration prove not feasible, this method proposed to discharge into a public surface water sewerage network would be acceptable and meets with the Run-off Destination Hierarchy.

**Torbay Council's Drainage Engineer:**

Although the applicant has correctly identified that the proposed development lies within Flood Zone 1, he has failed to identify that the development site is susceptible to surface water flooding as identified on the Environment Agency's long term flood risk information.

Where sites are identified within areas susceptible to surface water flooding the developer is expected to submit a site specific flood risk assessment. The flood risk assessment must demonstrate that the development will be safe from all sources of flooding without increasing flood risk elsewhere and where possible will reduce flood risk overall. Within the site specific flood risk assessment I would have expected to see the sources and predicted depth of flooding being identified, the proposed finished floor levels for the basement and ground floor, details of safe access and egress routes, details about what to do in an emergency including safe refuges, details of flood mitigation measures being proposed including an emergency flood plan. For the building.

The developer has submitted a simple site specific flood risk assessment however within this it only identifies that the site lies within Flood Zone 1 and does not identify the surface water flood risk. As a result, the submitted flood risk assessment fails to address the items raised in point 2 above.

Within the application form the developer has identified that surface water run off from the development will discharge to the combined sewer system. No justification has been submitted to demonstrate that the use of soakaways or sustainable drainage is not feasible. In accordance with the requirements of the Torbay Critical Drainage Area the developer must investigate the use of soakaways/sustainable drainage and only if this is not feasible will a controlled discharge to a watercourse, surface water sewer or combined sewer be allowed.

Before planning approval is granted the developer must submit a detailed site specific flood risk assessment and provide details of how the surface water drainage is to be discharged. If this is not to using soakaways or sustainable drainage, the developer must supply details of why these are not feasible.

**Environment Agency:**

No response received.

**Devon County Council's Ecologist:**

### South Hams SAC

The proposed development will not lead to the loss, damage, or disturbance to potential greater horseshoe bat commuting routes and foraging habitats. Nor will it lead to the loss damage or disturbance to a pinch point or an existing mitigation feature. This is due to the localised nature of the development in an urban, developed area, and the lack of suitable GHB habitat on site and in the surrounding area.

In line with the South Hams SAC Habitats Regulations Assessment Guidance document (DCC et al.,2019), and given the above, this project will not have a likely significant effect on the South Hams SAC population of Greater Horseshoe Bats either alone or in-combination.

### SAC Recreation Zone for Berry Head Country Park:

The development falls within the SAC Recreation Zone for Berry Head Country Park, where the potential for recreational pressure due to new developments may affect the wildlife interests of the Berry Head component of the South Hams SAC. Qualifying features include calcareous grassland and sea cliffs (with their associated species).

In the absence of mitigation, it is deemed that this development could, in combination with other plans and projects, have a Likely Significant Effect on the South Hams SAC due to recreational impacts on the calcareous grassland and so Appropriate Assessment is needed.

### Appropriate Assessment:

For non-CIL liable developments such as this, applications for additional tourist accommodation or additional dwellings within the Brixham Peninsula Neighbourhood Plan Area are required to pay a Section 106 contribution of £131 per holiday unit and £95 per new dwelling in order to offset the resultant additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point Component of the South Hams Special Area of Conservation.

Therefore, if approved, these holiday units would be required to pay s.106 contributions towards mitigating in-combination recreational impacts on the SAC.

### HRA Conclusion:

With this measure secured, there will be no adverse effect on the integrity of the SAC.

### Lyme Bay and Torbay SAC

The site is approximately 300m west of Lyme Bay and Torbay SAC. The development would result in an additional 9 holiday units within 300m of Lyme Bay and Torbay SAC interest features. Qualifying features are reefs, sea caves and great white sharks.

The potential threat of increased public access and disturbance to the sea caves has been raised in the SAC Site Improvement Plan (SIP) –



The SIP states however, that this issue is being addressed through the promotion of Codes of Conduct and a coastering licencing scheme led by the Torbay Coast and Countryside Trust. It is therefore considered that this proposal will not result in a Likely Significant Effect on the SAC either alone or in-combination with other Plans and Projects.

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 holiday development could increase the demand on foul water systems.

In the absence of mitigation, it is deemed that this development could, in combination with other plans and projects, have a Likely Significant Effect on the Lyme Bay and Torbay SAC due to pollution impacts and so Appropriate Assessment is needed.

#### Appropriate Assessment:

A Construction and Environmental Management Plan (CEMP) will be submitted and agreed with the LPA. This document will provide measures of construction controls on dust and reducing contaminated run-off.

Details of pollution control measures, including mitigation for the increased demand on foul water systems, post-construction will be submitted and agreed with the LPA. The CEMP and any required pollution control measures will be conditioned as part of any planning permission.

#### HRA Conclusion:

With these mitigation measures secured, there will be no adverse effect on the integrity of the SAC.

#### Torbay Marine Conservation Zone

The site is approximately 300m west of Torbay Marine Conservation Zone (MCZ). Qualifying features of 11 habitats and 3 species, including seagrass beds, intertidal mud, native oyster, long-snouted seahorse, and peacock's tail.

In view of the nature of the application for the clubhouse, holiday apartments, holiday caravans, and facilities, one impact pathway has been identified that have the potential to affect the interest features of the MCZ:

- Effects on water quality - Dust, sediment and pollutants reaching the MCZ through either discharge into local water courses, leaching through contamination of ground water, and/or transmission of dust through the air; and increased demand on drainage capacity and the foul sewer infrastructure.

In the absence of mitigation, it is deemed that this development could, in combination with other plans and projects, have a Likely Significant Effect on the Torbay MCZ due to pollution impacts.

Effects of increased recreational pressure have been screened-out as this is a low-risk application with respect to the increase in mooring and anchoring and given the small total net increase anticipated from this development compared with the total number of Torbay visitors, and so no mitigation is required.

The CEMP and any required pollution control measures including mitigation for the increased demand on foul water systems, post-construction will be conditioned as part of any planning permission, will be submitted and agreed with the LPA.

With these mitigation measures secured, there will be no adverse effect on the integrity of the MCZ.

No mitigation required for recreational pressures.

#### Other SSSIs

There will be no impacts on Sugar Loaf Hill SSSI and Saltern Cove SSSI due to localised nature of this development and a previously developed area and a lack of impact pathways.

#### European Protected Species

Conditions to include:

- No external lighting shall be installed at any time at the application site without the written permission of the Local Planning Authority.
- Development shall be carried out in accordance with the actions set out in the Bat Survey Assessment reports.
- No demolition shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

**The full response can be found on the Council's website.**

#### **Natural England:**

No response received.

#### **Torbay Council's Senior Strategic Planning Officer:**

In terms of the Torbay Development Plan:

- Torbay Local Plan 2012-2030, the Waterside Holiday Park is subject to the Urban Landscape Protection Area Policy C5.46 Waterside, Goodrington. The Council carried out an evidence base Review of ULPAs and this document should be considered in any LVIA if the value of the ULPA might be undermined. There appears to have been some clearance near to the Waterside Road boundary.
- Policy TO1 Supports the principle the improvement of existing and provision of new tourist accommodation and attractions, subject to other Policies in this Plan. Policy

TO2 seeks to protect facilities and accommodation outside that make a major contribution to the tourism offer. The site and has several designations abutting, including the SSSI, Local Nature Reserve, and Local Wildlife site, SWCP(SS6) and C3 Coastal Change Management area (C2 undeveloped coast). Strategic Transportation colleagues will comment with regard to the sustainable transport measures including EVC, access and the walking and cycling network (Policies TA1, TA2, TA3 ).

- The Council does not have a three or Five Year Housing Land Supply and the proposal includes the demolition of a detached 'family sized' dwelling (property 153 Dartmouth Road) and replacement with three mobile holiday homes. Therefore, the loss of even a single dwelling should be given moderate weight (considered in the context of the Council's declared housing crisis, the ambition of Policies SS1, and SS13 and NPPF ) alongside the benefits of the proposal to the holiday park and its contribution towards Torbay as a Premier Resort (Policy TO1).
- Subject to any direct site deliverability requirement, the commercial developments threshold (1000 sq m), sets out when wider section 106 contributions to offset impacts on biodiversity, open space and transport etc. can be sought. Policy SS5 of the Local Plan and the Planning Contributions SPD relate.
- The Brixham Peninsula Neighbourhood Plan still applies, was recently "made" and is up to date for applications not involving the supply of housing. However, one does need to be conscious of the new BCG Forum Area and the PNP boundary amendment cutting through the site. The Forums make may separate representations but in terms of the adopted BPNP Policies Map (extract below) the Waterside Holiday Park site lies within the BPNP Settlement Boundary (Policy E2) in which '*...proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement (Policy BH5), abutted by the Local Green Space (Policy E4.16) at Sugar Loaf Hill. BPNP contains Design Statements (under Policies BE1/BH5) and Policies for Tourism TO1 in which '*...developments that increase the quality and range of tourist accommodation and leisure potential in the Peninsula area will be supported...*'*

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

1. Principle of Development
2. Impact on the Character of the Area
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Impact on Ecology and Trees
6. Flood Risk and Drainage

### **Planning Officer Assessment**

## 1. Principle of Development

The proposal is for the construction of a new raised external decking structure to the north and east of the existing clubhouse building. The conversion of the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces. The conversion of the existing "Smugglers Inn" building to provide 2no holiday apartments to the upper floor, new glass balustrade to the perimeter of the roof terrace, and staff accommodation to the lower floor. Use of land previously occupied by the external swimming pool for 4no static caravans and the demolition of existing lodge and dwelling adjacent to Dartmouth Road and the construction of 3no static caravans.

The Council does not have a three or five year Housing Land Supply and the proposal includes the demolition of a detached 'family sized' dwelling (No.153 Dartmouth Road) and replacement with three static caravans. Therefore, the loss of a single dwelling should be given moderate weight, considered in the context of the Council's declared housing crisis, the ambition of Policies SS1, and SS13 and the guidance contained within the NPPF, alongside the benefits of the proposal to the holiday park and its contribution towards Torbay as a Premier Resort. The existing dwelling can only be vehicularly accessed from within the holiday park. Whilst it is acknowledged that the proposal results in the loss of one dwelling, the proposal offers additional and improved tourist accommodation to contribution towards the tourism economy.

Policy TO1 of the Local Plan supports in principle the improvement of existing and provision of new tourist accommodation and attractions, subject to other policies in the plan. The policy goes on to state that the retention, improvement and creation of new, high-quality tourism and leisure attractions, facilities and accommodation in sustainable, accessible locations would be supported.

Policy TO1 of the Neighbourhood Plan states subject to compliance with the other policies in the Neighbourhood Plan, developments that increase the quality and range of tourist accommodation and leisure potential in the Peninsula area will be supported, especially where it can be demonstrated that the development will lead to the creation of local jobs.

The majority of Waterside Holiday Park lies within the Brixham Peninsula Neighbourhood Plan Settlement Boundary as defined by Policy E2, which states '*...proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement (Policy BH5).*

In the context of development within the built-up area, there are no Development Plan policies indicating that the proposal is not acceptable in principle. 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 the Character of the Area**

Paragraph 126 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 134 states that 'development that is not well designed should be refused, especially where it fails to reflect local design and government guidance on design'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy BH5 of the Brixham Peninsula Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area. 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 development within the site boundary of the holiday park. The application is supported by a Landscape Masterplan Report. The proposal is for the construction of a new raised external decking structure to the north and east of the existing clubhouse building. The conversion of the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces. The proposed development to the clubhouse is considered to be of a minor scale and the clubhouse is sited within the valley amongst the caravans and largely unseen within its surroundings, therefore such elements of the proposal are considered to be acceptable. The existing swimming pool is proposed to be infilled and 4no. static caravans sited in its place, given the topography of the land and the clubhouse being sited closer to Dartmouth Road, it is considered that the visual impact of such would also be limited.

The proposal also includes the conversion of the existing "Smugglers Inn" building to provide 2no holiday apartments to the upper floor, new glass balustrade to the perimeter of the roof terrace, and staff accommodation to the lower floor. This element of the proposal would have limited visual impact and would only be somewhat noticeable when within the site.

The proposal also includes the demolition of the existing wooden lodge and the two storey dwelling adjacent to Dartmouth Road, to then utilise the land for erection of 3no static caravans, this element of the proposal falls within the Paignton Neighbourhood Plan boundary. This part of the site is mainly shielded from Dartmouth Road given the existing hard boundary treatments. By virtue of the fall of the land from west to east and the presence of a tall solid wall the proposed caravans at this part of the site will not be visible from the Dartmouth Road either from vehicles or by pedestrians. The

existing two storey dwelling is similarly set below road height with only a partial view of the roof and upper floor. The removal of this dwelling is not considered to be detrimental as limited views are possible, therefore it is considered that its removal will not materially impact upon the street scene.

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

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

In terms of landscape impact, it is relevant to consider that part of the clubhouse is within the ULPA boundary. It is considered that the application site is mainly screened when viewed from Dartmouth Road, given the topography of the land. The site would be visible from Waterside Road as Waterside Road sits at a higher level than the application site. It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPA, subject to a suitable landscaping scheme. 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.

It is considered that the proposed development in terms of visual amenity is acceptable and accord with Policies DE1 and C5 of the Local Plan, Policy BH5 of the Brixham Peninsula Neighbourhood Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and guidance contained within the NPPF.

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

Policy DE3 of the Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Brixham Peninsula Neighbourhood Plan is largely silent on the matter of amenity. 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 protect residential amenity in terms of noise, air, or light pollution. Paragraph 130 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 noise. It should be noted that the proposed development is to be contained to the existing site boundary.

The site is partially surrounded by residential development, given its urban location. It is considered that the properties most affected by the proposals will be dwellings on Saltern Road to the North. In regard to the static caravan development in replacement of the existing dwelling and wooden lodge, its relationship to the adjacent properties on Saltern Road is considered acceptable. This is due to the scale of the proposed new static caravans, how they sit when considering the local land levels, the existing boundary treatments and the distance involved between the buildings and structures. There is unlikely to be any potential for overlooking, loss of privacy, or loss of light/outlook. It is accepted that the placement of static caravans may increase the level of activity within the area, however the basic land use remains part of a tourism site and the impact is unlikely to be demonstrable. In respect of the impact of the dwellings off Saltern Road, the plot arrangement produced does not introduce any scale of building, or distance between buildings that may result in harm to existing occupants through loss of privacy, light or outlook.

In terms of the other proposed development, the development is within the middle of the holiday park. Given its siting, scale and design, it is considered that the proposal would not result in any unacceptable impact on the amenities of neighbouring occupiers in terms of their privacy, outlook, or access to natural light, and would not result in any unacceptable impacts in terms of noise or odour.

Overall, the proposal is considered to be in accordance with Policy DE3 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and the guidance contained within the NPPF.

#### **4. Impact on Highway Safety**

Paragraph 110 of the NPPF guides that when assessing developments it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be - or have been - taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and (d) 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. Paragraph 111 of the NPPF confirms that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of

containers for waste and recycling. Policy TA1 of the Local Plan sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy BH8 of the Brixham Peninsula Neighbourhood Plan states that all new development should comply with the relevant adopted standards.

Objectors have raised concerns regarding traffic and access. Appendix F of the Local Plan states that 1 parking space should be provided per unit. The agent has addressed the concerns stating that the Site Licence requires adequate parking to be provided within the park for caravan occupiers and visitors alike. This is a mandatory requirement. Parking is not always capable of being provided 'on-pitch' due to landfall or layout constraints and communal car parks are not uncommon. That is the case at Waterside. Modern park development/redevelopment does nevertheless endeavour to provide on-pitch parking these days where achievable. The vehicular access within the site will largely remain unaltered, other than minor reconfiguration of the existing car park.

and accord with Policies TA1, TA2 and TA3 of the Local Plan, Policy BH8 of the Brixham Peninsula Neighbourhood Plan and the guidance contained within the NPPF.

## **5. Impact on Ecology and Trees**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plans states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that internationally important sites and species will be protected. Development affecting internationally protected site and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to the NPPF and conforms with Policy NC1 of the Local Plan.

The application has been supported by two ecological reports which have been reviewed by Devon County Council's Ecologist on behalf of the Local Planning Authority.

The application site lies within the sustenance zone for the South Hams Special Area of Conservation (SAC) with respect to Greater Horseshoe Bats. The proposed



development will not lead to the loss, damage, or disturbance to potential greater horseshoe bat commuting routes and foraging habitats. Nor will it lead to the loss damage or disturbance to a pinch point or an existing mitigation feature. This is due to the localised nature of the development in an urban, developed area, and the lack of suitable GHB habitat on site and in the surrounding area. In line with the South Hams SAC Habitats Regulations Assessment Guidance document (DCC et al.,2019), and given the above, this project will not have a likely significant effect on the South Hams SAC population of Greater Horseshoe Bats either alone or in-combination.

The development falls within the SAC Recreation Zone for Berry Head Country Park, where the potential for recreational pressure due to new developments may affect the wildlife interests of the Berry Head component of the South Hams SAC. Qualifying features include calcareous grassland and sea cliffs (with their associated species). For non-CIL liable developments such as this, applications for additional tourist accommodation or additional dwellings within the Brixham Peninsula Neighbourhood Plan Area are required to pay a Section 106 contribution of £131 per holiday unit and £95 per new dwelling in order to offset the resultant additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point Component of the South Hams Special Area of Conservation.

The site is approximately 300m west of Lyme Bay and Torbay SAC. The development would result in an additional 9 holiday units within 300m of Lyme Bay and Torbay SAC interest features. Qualifying features are reefs, sea caves and great white sharks. The potential threat of increased public access and disturbance to the sea caves has been raised in the SAC Site Improvement Plan (SIP). The SIP states however, that this issue is being addressed through the promotion of Codes of Conduct and a coastering licencing scheme led by the Torbay Coast and Countryside Trust. It is therefore considered that this proposal will not result in a Likely Significant Effect on the SAC either alone or in-combination with other Plans and Projects.

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 holiday development could increase the demand on foul water systems. Therefore, a Construction and Environmental Management Plan (CEMP) is recommended to be included as a planning condition.

The site is approximately 300m west of Torbay Marine Conservation Zone (MCZ). Qualifying features of 11 habitats and 3 species, including seagrass beds, intertidal mud, native oyster, long-snouted seahorse, and peacock's tail. In view of the nature of the application for the clubhouse, holiday apartments, holiday caravans, and facilities, one impact pathway has been identified that have the potential to affect the interest features of the MCZ:

- Effects on water quality - Dust, sediment and pollutants reaching the MCZ through either discharge into local water courses, leaching through contamination of ground

water, and/or transmission of dust through the air; and increased demand on drainage capacity and the foul sewer infrastructure.

Therefore, planning conditions are recommended to mitigate any potentially harmful impact on the Torbay MCZ.

In terms of the proposed development and European Protected Species, a number of planning conditions are recommended to protect bats and nesting birds, such as no external lighting without the permission of the Local Planning Authority, the development to be carried out in strict accordance with the measures outlined in the accompanying ecology reports, and pre-works check for nesting birds if demolition to occur between March and August.

Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy NC1 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The proposed development would not result in the loss of any trees. The Council's Tree and Landscape Officer has been consulted on the proposal and raises no arboricultural issues, however recommends a planning condition is employed to secure a suitable landscaping plan. Subject to the aforementioned planning condition, the proposal is considered to comply with Policy C4 of the Local Plan.

It is considered that impacts on matters of biodiversity and trees are acceptable and accord with Policies NC1 and C4 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan, subject to appropriate mitigation.

## **6. Flood Risk and Drainage**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Given that part of the application site is within the Paignton Neighbourhood Plan boundary, Policy PNP1(i) of the Paignton Neighbourhood Plan is also relevant and 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 a Surface Water Area. A holding objection has been raised by the Council's drainage engineer requesting additional information. An update on this will be provided to Members at Planning Committee but nevertheless it is recommended that the outstanding flood risk matters should be delegated to officers. A planning condition is recommended to secure a sustainable surface water drainage, subject to this the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

## **7. Designing Out Crime**

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict.

The Police Designing-Out Crime Officer has been consulted and recommends designing out crime measures to prevent opportunities for crime and anti-social behaviour. Officers recommend the use of a planning condition to secure the scheme of crime prevention measures. Subject to the recommended planning condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan.

## **Sustainability**

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

### **The Economic Role**

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

When the lodges are 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 and improved tourist facilities.

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, ecology and bio-diversity, and surface and foul water drainage. These matters are considered in detail above.

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

The proposed development is in a sustainable location inasmuch as it is within the existing urban area and is located in close proximity to local amenities and good public transportation links.

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

### **Sustainability Conclusion**

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

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

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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good

relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

#### **S106:**

Due to the nature of the proposal and its location, a unilateral undertaking has been completed to secure the planning contributions required for the recreational impacts on the Berry Head calcareous grassland. A sum of £1,369 (9 x £131 and 2 x £95) is required, as per the Planning Contributions and Affordable Housing SPD.

#### **CIL:**

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule. The CIL liability for this scheme is Nil.

### **EIA/HRA**

#### **EIA:**

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

#### **HRA:**

The application site is within a sustenance zone associated with the South Hams SAC, 300 metres west of the Lyme Bay and Torbay SAC and Torbay MCZ. The proposed development is unlikely to have a significant effect on the South Hams SAC or the functionally-linked supporting habitat associated with this either alone or in combination with any other plans or projects, no adverse effect on the integrity of the Lyme Bay and Torbay SAC, no adverse effect on the integrity of the MCZ, subject to mitigation measures secured by condition and/or obligation and being implemented in full.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to enable Torbay's tourism offer to be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. Tourist facilities and accommodation will be improved and modernised, and new tourism facilities provided, in order to attract new visitors, particularly overnight visitors, and increase overall spend.

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

The proposal is considered acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide an adequate standard of tourist accommodation and provide acceptable arrangements in relation to access and ecology. The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Brixham

Peninsula Neighbourhood Plan, the Paignton Neighbourhood Plan, the NPPF and all other material considerations.

### **Officer Recommendation**

Conditional approval subject to the resolution of a flood risk to the satisfaction of Officers; completion of a unilateral undertaking for the holiday units towards mitigating in-combination recreational impacts on the SAC; and the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director responsible for Planning, Housing and Climate Emergency.

### **Conditions**

#### **Bats and Breeding Birds**

No removal of hedgerows, trees or shrubs or demolition shall take place between 1st March and 30 September 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 and in accordance with the actions set out in the Bat Survey Assessment reports.

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

#### **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 and dust and to ensure environmental protection. 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.
- Wheel washing facilities

Development shall take place in accordance with the approved plan and details which shall be implemented in full.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, In accordance with Policy DE3 of the Torbay Local Plan 2012-2030. This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

### **Construction Environmental Management Plan**

No development shall take place (including ground works, vegetation clearance, demolition) until a Construction Environmental Management Plan (CEMP: Biodiversity) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

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

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

Reason: In the interests of protected species and residential amenity and in accordance with Policies NC1 and DE3 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan. These details are required prior to commencement of development to secure suitable parameters for the construction phase.

### **Landscaping**

Prior to the first use of the development hereby approved, a landscaping plan, including both hard and soft landscaping, shall be submitted to, and approved in writing by, the Local planning authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development to which they relate 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 to which it relates being brought into use and shall be retained for the life of the development. The landscaping plan shall include any further vegetation clearance, and shall define the type and areas of existing vegetation which will be retained and the type of re-planting / sowing that will be established, with the inclusion of plant species favoured by curlew and including the future management of said plant species. Once provided, the agreed landscaping shall be maintained for the life of the development.

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

### **Details – Static Caravans**

Prior to the placement of static caravans on the site external details of the static caravans, including design, colour, type and texture, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be completed in accordance with the agreed details and the approved details shall not be altered or changed without the prior approval of the Local Planning Authority.

Reason: In the interests of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy BH5 of the Brixham Peninsula Neighbourhood Plan 2012-2030.

### **Occupancy Restriction**



The static caravans and holiday apartment units hereby approved shall be for holiday use only and not for permanent residential occupation and shall not be occupied as a person's sole or main residence. Following the first occupation of the first unit the on-site manager of the facility shall at all times maintain a register of the names of all the owners/occupiers of the lodges and of their home addresses and shall make this information available at all reasonable times to the Local Planning Authority.

Reason: In the interests of tourism, the local economy, residential amenity and highway safety in accordance with Policies TO1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy TO1 of the Brixham Peninsula Neighbourhood Plan 2012-2030.

### **Staff Accommodation Restriction**

The self-contained staff accommodation units hereby approved shall be for staff accommodation use only by persons whose main employment is at the application site.

Reason: In the interests of tourism, the local economy, residential amenity and highway safety in accordance with Policies TO1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy TO1 of the Brixham Peninsula Neighbourhood Plan 2012-2030.

### **External Lighting**

Prior to the installation of any external lighting within the site, full details including their design, siting and levels/type of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be installed and retained in full accordance with the approved details.

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

### **Ecology Report**

The development hereby approved shall be carried out in accordance with the mitigation measures, recommendations and biodiversity net gain measures set out in the approved ecology report (plan reference 'CE-21002' received 12<sup>th</sup> July 2021 and 'CE-21002.1 (additional buildings)' received 3<sup>rd</sup> September 2021).

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

## **On-going Pollution Control Post-Development**

Within 6 months of the commencement of development, details of ongoing pollution control measures post-construction will be submitted, including mitigation against waterborne pollutants entering the Special Area of Conservation and mitigation for the increased demand on foul water systems, shall be submitted to and approved in writing by the Local Planning Authority. The approved ongoing pollution control measures shall be managed and maintained for the lifetime of the development.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

## **Surface Water Drainage [subject to resolution]**

A surface water flood risk assessment and surface water drainage plan shall be submitted and approved by the local planning authority prior to the commencement of development which demonstrates that the development will be safe from all sources of flooding without increasing flood risk elsewhere and where possible will reduce flood risk overall and which will provide for sustainable surface water drainage and discharge which meets with the Run-off Destination Hierarchy.

The recommendations of the approved flood risk assessment and the approved surface water drainage plans shall be implemented in full prior to occupation of the development (or otherwise in accordance with the terms of the approved assessment and plans) and shall be retained for the lifetime of the development.

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

## **Foul Water Drainage**

A foul water drainage plan shall be submitted and approved by the local planning authority prior to the commencement of development to include mitigation for the increased demand on foul water systems and impact on the foul sewer infrastructure post-construction.

The recommendations of the approved foul water drainage plans shall be implemented in full prior to occupation of the development (or otherwise in accordance with the terms of the approved assessment and plans) and shall be retained for the lifetime of the development.

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

### **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, DE3 and SS11 of the Adopted Torbay Local Plan 2012-2030.

### **Informative(s)**

#### 01. 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.

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

### **Relevant Policies**

C4 – Trees, Hedgerows and Natural Landscape Features

C5 – Urban Landscape Protection Areas

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

BH5 – Good Design and the Town and Village Design Statements

E2 – Settlement Boundaries

E8 – Internationally and Nationally Important Ecological Sites

PNP1(c) – Design Principles

PNP1(i) – Surface Water

## TORBAY COUNCIL

Application Site Address	21 Old Mill Road Torquay TQ2 6AU
Proposal	Conversion of existing building into five houses, one flat and one maisonette, with demolition of existing classrooms to form four dwellings. Revision to approved Planning Application Nos. P/2019/0919 & P/2021/0550.
Application Number	P/2021/1215
Applicant	Mr Mark Pratt - MDP Development South West Ltd
Agent	Mr Simon Blake - Charles Blake Associates
Date Application Valid	03/11/2021
Decision Due date	02/02/2022
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director responsible for Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee due it being of a major nature.
Planning Case Officer	Emily Elliott

### Location Plan:



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### **Site Details**

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

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

### **Description of Development**

The proposal seeks permission for the conversion of the former Cockington Primary School site into five houses, one flat and one maisonette, with demolition of existing classrooms to form four terraced dwellings.

The proposal includes individual private amenity spaces for all the residential units. The proposals would have vehicular access from Old Mill Road and would provide 16 on-site parking spaces. Works have started on site to implement an earlier planning permission.

### **Pre-Application Enquiry**

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

### **Relevant Planning Policy Context**

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

#### **Development Plan**

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

#### **Material Considerations**

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

referred to in this report:

### **Relevant Planning History**

P/2021/0550: Variation/Removal of conditions relating to application P/2019/0919. Conditions: P1 - Amended plans to replace approved plans for design variations, including reconfiguration of internal layouts; alterations to fenestration, use of single material and provision of additional rooflights; minor relocation (1m northwest) and stepping of levels in centre of Units 8-11; reconfiguration of landscaping to improve/provide additional private amenity spaces, replacement of some hard surfacing with soft landscaping, improvement of vehicle movements within car parking/turning area. Removal of Conditions: 01 - Landscaping, 02 - Boundary Treatment, 14 - Unit 7 Residential Environment. Approved 07/10/2021.

CN/2021/0026: Discharge of Conditions in relation to P/2019/0919: Condition 06 - Materials, Condition 07 - Designing Out Crime, Condition 16 - AMS. Approved 29/04/2021.

CN/2021/0007: Discharge of Condition relating to application P/2019/0919. Condition: 10 - Construction Method Statement. Approved 02/03/2021.

P/2019/0919: Conversion of existing building to create 7 flats. Demolition of existing classrooms to form 4 dwellings. Approved 04/02/2020.

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. 1 letters of representation have been received.

Concerns include:

- Drainage
- Impact on local area
- Noise
- Privacy/overlooking
- Traffic and access
- Trees and wildlife

### **Summary of Consultation Responses**

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

No response received.

#### **Torbay Council's Drainage Engineer:**

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

**South West Water:**

South West Water have no further comments beyond those already given.

**Torbay Council's Senior Tree and Landscape Officer:**

Satisfied with the Arboricultural Development Assessment.

**Torbay Council's Senior Environmental Health Officer:**

Just to confirm having reviewed the construction phase health and safety plan submitted by the applicant which covers issues including noise and dust and as such I have no objections to this application.

**SWISCo's Waste Client Manager:**

No objections.

**Police Designing Out Crime Officer:**

From a designing out crime, fear of crime and anti-social behaviour perspective I have no objections to the proposal. It is welcomed that the recommendations previously put forward by my colleague have been considered and implemented where practicable, as part of the planning phase. However, I request consideration is given to a full height gate being installed on the side access of unit 11 which goes to the rear garden, this gate ideally should be as close to the front building line as possible to prevent formation of a recessed space.

**Torbay Council's Highways Engineer:**

CAR AND CYCLE PARKING

As the type of development has changed within the revision of the planning submission, a new assessment of the car and cycle parking provision is required to be undertaken. Referencing the Torbay Local Plan (2012 – 2030) Appendix F Car Parking Standards, the applicant would be required to provide two car parking spaces per house, with one car parking space for flat/maisonette. This would now provide a requirement for 20 car parking spaces.

The applicant has not submitted an updated site layout plan as part of the revised application. The previously approved site layout (ref.4091-100-C) provided a total of 16 car parking spaces, which is a shortfall in provision of four spaces. The applicant will be required to provide car parking in accordance with standards outlined within the Torbay Local Plan (2012 – 2030) – Appendix F, or demonstrate as to why the current provision is adequate, to ensure that no overspill parking occurs on the local highway network. This is in the interest of highway safety. The applicant should also note that one space per house should accommodate electric vehicle charging facilities.

The cycle parking provision remains the same which is considered acceptable.



## TRIP GENERATION

Due to the minor change in the type of development proposed it is considered that any increase in trip generation associated with the development proposals would result in a negligible impact upon the operation and capacity on the local highway network.

## CONCLUSION

Based upon the information submitted at the time of writing, the highway authority is unable to provide a recommendation. The applicant will be required to provide the following information:

- Ensure that car parking provision is in accordance with the standards outlined within the Torbay Local Plan (2012 – 2030) Appendix F or demonstrate as to why the current provision is adequate. This should also include consideration for the provision of electric vehicle charging points.

## **Planning Officer Assessment**

### Key Issues/Material Considerations

1. Principle of Development
2. Impact on the Character of the Area
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Ecology and Biodiversity
6. Flood Risk and Drainage
7. Affordable Housing Contributions
8. Designing Out Crime

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

The proposal is for the conversion of the former Cockington Primary School site into five houses, one flat and one maisonette, with demolition of existing classrooms to form four terraced dwellings.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by the National Planning Policy Framework (NPPF)

Paragraph 11 of the NPPF states:

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

For decision-taking this means:

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

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or

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

Footnote 8: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

Policy TS4 of the Torquay Neighbourhood Plan states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. It further advises that development of greenfield sites can have an adverse impact through the loss of green space, so will only be supported where it is an allocated site within the Neighbourhood Plan or the loss is required to meet the strategic economic policies within the Local Plan.

In the light of the broad aspirations of Policy H1 of the Local Plan and Policy TS4 of the Torquay Neighbourhood Plan, the principle of residential use on the site is considered acceptable, subject to broader policy considerations. It is noted that the site is well located for housing, in a sustainable location with good access to shops and other services, transport links and recreational areas, within an area currently of residential character. This context supports the principle of a residential use being acceptable.

It should also be noted that the site has previous permissions for residential development (planning references P/2019/0919 and P/2021/0550). It has been noted that there have been some inconsistencies between the layout and description of development with a previous permission.

## **2. Impact on Visual Character**

Paragraph 126 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 134 states that 'development that is not well designed should be refused, especially where it fails to reflect local design and government guidance on design'.

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

An objector has raised concerns in terms of impact on local area. Units 1-7 (5 dwellings, 1 flat and 1 maisonette) would all be accommodated within the former school building's existing envelope, with only minor alterations to its external appearance including additional rooflights. The new-build dwellings would replace the previous three temporary classrooms. The proposed new-build, terraced dwellings will provide a positive addition to the site. The side elevations of these dwellings contain openings instead of a blank façade, which assists in providing active frontages. It is considered that the proposed development provides a suitable and well-designed scheme to redevelop a vacant brownfield site.

The proposal is very similar to that of the previously approved schemes in terms of design, siting and scale. The existing main school building will be internally converted to provide new residential units. The existing dilapidated teaching huts within the car park area will be demolished to make way for a new terrace of four houses. A noticeable difference is the four terraced dwellings will be staggered slightly instead of having a continuous ridgeline. The scheme includes removing the existing roof slates from the former school building and replacing them with new Mocha 100 Prime Spanish blue-black natural slates with red clay ridge tiles. The proposed extension to the former school building will be finished in red face brickwork with buff brick detailing to heads/cills and plinth. The existing cill levels to be lowered with stone cills retained and relocated at lower level. The installation of velux conservation style rooflights with central glazing bars. Replacement and new windows to be double-glazed, black uPVC and black uPVC gutters, downpipes and hoppers. Front doors to all units to be insulated composite doors with black uPVC French doors to rear of properties. The original scheme of 2019 sought new uPVC cottage style windows in white. It is considered that white openings are more appropriate than black, therefore it is recommended a planning condition is conditioned to secure such.

The proposed terraced dwellings sit subservient to the former school building and are of a scale and design similar to those in the immediate locality. The terraced dwellings oppose the former school building's main frontage with all having front gardens and a communal path. The surrounding area is characterised by residential and commercial properties, particularly this part of Old Mill Road seeks commercial use to the ground floor and residential units to the first floor and some roofscapes. It is considered that the proposals to the former school building do not detract from its historic form, with its minorly adjusted footprint given the proposed side extension and its general massing.

A planning condition is recommended to secure adherence to the proposed external materials. Given the proposal's siting, scale, and design, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or street scene in accordance with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF. The site is adjacent to, but not within, the Chelston Conservation Area and it is considered that the proposed development will preserve the character and appearance of the conservation area.

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

Policy DE3 of the Local Plan states that development proposals should be designed to provide a good level of amenity for future residents and will be assessed in terms of the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution, provision of useable amenity space, and an adequate internal living space.

#### *Internal Living Space*

Policy DE3 of the Local Plan requires that new residential units provide adequate internal floor space in order to achieve a pleasant and healthy environment. The Neighbourhood Plan is largely silent on the matter of amenity. The NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policy DE3 sets out the minimum floor space standards for new dwellings and apartments. The proposed residential units comply with the minimum floor space requirements. Therefore, the proposed residential accommodation is considered to comply with Policy DE3 of the Local Plan.

#### *External Amenity Space*

Policy THW4 of the Torquay Neighbourhood Plan states that all new houses shall have not less than 20 square metres of outside space and must have garden areas with not less than 10 square metres of space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. Flats or apartments must have either a balcony of not less than 10 square metres and as appropriate to the size of the home or a communal green area of not less than 10 square metres per unit within the curtilage of the property. The proposed layout provides an external amenity space for each residential unit that meet such standards. The site also benefits from being within close proximity to Sherwell Park. The proposal is considered to comply with Policy THW4 of the Torquay Neighbourhood Plan.

#### *Daylight*

Each of the habitable rooms proposed within the dwelling are served by sufficient window openings to allow for sufficient outlook and light and as such is considered to offer a good standard of internal amenity for future occupiers. Given the differences in finished floor levels, it is considered that the proposed openings between the proposed residential units will not provide direct intervisibility between habitable rooms. More generally in terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area.

To ensure the amenity of the occupiers of Unit 7 are protected, a planter to screen the car parking area has been proposed to prevent headlight intrusion and nuisance from other occupiers of the development.

An objector has raised concerns in terms of noise and privacy/overlooking. Given the proposal's siting, design and orientation in relation to adjacent neighbours it is considered that the proposed development would not have a detrimental impact on the amenity of neighbours, in terms of overlooking their outlook, privacy, or access to natural light.

The proposal includes the proposed boundary treatments of the site, which is considered to provide an acceptable level of privacy to be maintained between future occupiers and also adjacent neighbours, however the timber hit-and-miss fencing is not considered to be an appropriate use of material for the bin storage area and the boundary of Unit 11, therefore a planning condition is recommended to secure appropriate materials and install the boundary treatments prior to the occupation of the development. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

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, subject to compliance with the construction method statement. 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 (including relating to issues of noise) of neighbours.

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

#### **4. Impact on Highway Safety**

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development.

Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future. Policy TH9 goes on to state that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel.

An objector has raised concerns regarding traffic and access. The proposal alters the existing vehicular access from Old Mill Road and provides easier access to the proposed parking court. The proposal includes 16 on-site parking spaces, such as that of previous approvals. Local Plan policy guidance states that the proposed development should provide one off-street parking space per apartment and two off-street parking spaces per dwelling, totalling 20 off-street parking spaces, plus an additional parking space for visitors. There is a deficit of 5 parking spaces, however it is considered that the site is in a sufficiently sustainable location as it is on the edge of the Local Centre and is in close proximity to local amenities and public transportation links to mitigate the insufficient onsite parking provision. The proposal also includes 20 bicycle storage spaces, which would be policy compliant for 2 spaces per dwelling and 1 space per apartment.

The Local Highway Authority consider that due to the minor change in the type of development proposed it is considered that any increase in trip generation associated with the development proposals would result in a negligible impact upon the operation and capacity on the local highway network.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The proposal provides bin storage, SWISCo's Waste Client Manager is satisfied with the proposals for waste and recycling storage and collection. Compliance conditions are recommended to secure the bin and bicycle storage and parking provision. On balance, it is considered that the proposal would have an acceptable impact in terms of highway safety, and would comply with Policies TA1, TA2 and TA3 of the Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

## **5. Impact on Ecology**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected

species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Paragraph 174).

The application is supported by a Protected Species Assessment. An objector has raised concerns in terms of trees and wildlife. The report states that the buildings were carefully checked and no evidence of current or recent use by bats was found. The report also states that no evidence of nesting birds was found within/on the buildings and that the grounds do not have any trees, shrubs or other dense cover suitable for nesting. The report states that there is a small area of rough grassland on the southern boundary does not provide habitat suitable for any specially protected species; this includes slow-worms as the area is too small to support a resident population. The report concludes that there is no requirement for further survey work. The report provides mitigation measures and biodiversity net gain requirements, which are recommended to be secured by planning condition.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The application is supported by a tree report, a tree survey, a tree protection plan and an arboricultural assessment. The Council's Senior Tree and Landscape Officer confirms the proposal development is sustainable from an arboricultural perspective subject to planning conditions for compliance to the documents and proposed landscaping plan.

Having considered the submitted assessments, subject to the aforementioned planning conditions, as suggested, the development is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

## **6. Impact on Flood Risk and Drainage**

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment. An objector has raised concerns regarding drainage. The Council's Drainage Engineer has been consulted on the scheme and has stated that the hydraulic modelling confirms that the surface water system as designed will not result in a flood risk to properties on the site or any increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change. The Council's Drainage Engineer raises no objections on drainage grounds to planning permission being granted, subject to a planning condition to secure the surface water drainage.

## **7. Affordable Housing Contributions**

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

## **8. Designing Out Crime**

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy TH2 of the Torquay Neighbourhood Plan states that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

The Police Designing-Out Crime Officer has been consulted and is satisfied with the designing out crime measures to prevent opportunities for crime and anti-social behaviour. Officers recommend the use of a planning condition to secure the scheme of crime prevention measures. Subject to the use of this condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and TH2 of the Torquay Neighbourhood Plan.

## **9. Low Carbon Development**

Policy SS14 of the Local Plan seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 of the Local Plan states that the Local Plan will seek to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited. All major development proposals should make it clear how low-carbon design has been achieved, and how the following sequential energy hierarchy has been applied in doing so. Proposals should identify ways in which the development will maximise opportunities to achieve the following:

1. Conserve energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling;
2. Use energy efficiently within the fabric of the building;



3. Incorporate the use of decentralised heat, cooling and power systems; and
4. Use on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

An update will be provided to Members at Planning Committee.

### **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 are 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 residential units to be provided must carry significant weight in this balance.

The provision of housing would provide an appropriate use and offer units within a sustainable location.

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

#### **The Environmental Role**

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

The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition.

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

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

### **Sustainability Conclusion**

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

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

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

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

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

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

### **EIA/HRA**

EIA:

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

HRA:

Not applicable.

### **Planning Balance**

This report gives consideration to the key planning issues, the merits of the proposal and development plan policies. It is concluded that whilst the proposal has a substandard level of on-site parking, when considering the planning balance the public benefit outweighs such harm. Therefore, on balance the proposal is considered to be acceptable having regard to the Development Plan taken as a whole.

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

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, flood risk, and ecological constraints. On balance, the proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

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

### **Conditions**

#### **Landscaping**

Landscaping shall take place in accordance with the approved scheme on plan reference 748-02 E (Planting plan) received 3<sup>rd</sup> November 2021 within the first planting season following the substantial completion of, or occupation of the development, whichever is the sooner, and shall be provided in full and retained for the life of the development. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within 8 weeks of the development being brought into use, and shall be retained for the life of the development.

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

### **Boundary Treatments**

Notwithstanding the details shown on the approved plans, prior to the first occupation of the development hereby permitted, a full scheme of boundary treatments including the bin storage enclosure shall be submitted to and approved in writing by the Local Planning Authority. Once approved, the approved details shall be provided in full prior to first occupation and retained for the life of the development.

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

### **Hedgerow, Tree and Shrub Removal**

No removal of hedgerows, trees or shrubs shall take place between 1st March and 30th September inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

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

### **Permitted Development Rights**

Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Schedule 2, Part 1 Classes A, B, C, D, E, F and G and Part 2 Class A in relation to the dwellinghouses hereby approved shall be constructed without the prior written consent of the Local Planning Authority.

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

### **Ecological Report**

The development shall proceed, and shall be retained thereafter, in full accordance with the approved ecological report (plan reference 'P2021-1215-6 (Protected Species Assessment)' received 3<sup>rd</sup> November 2021) hereby approved, including the outlined recommendations and ecological enhancements.

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

### **Materials**

The development shall be constructed in accordance with the approved materials details (plan references '4091-103 A (General Arrangement)', '4091-104 A (Units 8-11)' and '4091 MATERIALS 01 (Brick & Roof Slate)' received 3<sup>rd</sup> November 2021), and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of locality and the streetscene in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Fascia and Bargeboard Details**

Prior to the occupation of the development hereby approved, detailed drawings of fascias and bargeboards including the materials and finishes shall be submitted to and approved in writing by the Local Planning Authority. 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 locality in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Window and Door Details**

Notwithstanding the approved plans, prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority, which seek to respond to the positive aspects of the local prevailing character of the area:

- Materials and finish
- 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 locality in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Designing Out Crime**

Prior to the first use of the development hereby approved, the development shall be carried out in strict accordance with the designing out crime measures approved. The approved measures shall be permanently retained for the lifetime of the development.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Parking Provision**

The development hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the plan reference "Proposed Layout" (plan reference '748-01 C (Hardworks)' received 3<sup>rd</sup> November 2021) have been provided. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

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

### **Electric Charging Points**

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

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Planning Policy TA1, TA3 and Appendix F of the Adopted

Torbay Local Plan 2012-2030 and Policy TH9 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Construction Method Statement**

The development hereby approved shall be carried out in strict accordance with the approved Construction Method Statement (plan reference 'P2021-1215-2 (Construction Phase Plan)' received 3<sup>rd</sup> November 2021).

Reason: In the interest of residential amenity of the locality and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Refuse Storage**

Notwithstanding the bin storage shown on the approved plans in particular the materials shown, prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details including elevational drawings and material details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

### **Bicycle Storage**

Prior to the first occupation of the development hereby permitted, the approved bicycle storage on plan reference '748-01 C (Hardworks)' received 3<sup>rd</sup> November 2021, shall be provided in full and retained for the life of the development.

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

### **Drainage**

The development shall be undertaken in strict accordance with the approved drainage details and retained as such at all times thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030, the guidance contained in the NPPF, and the requirements of the designation of the Critical Drainage Area by the Environment Agency.

## **Arboricultural Method Statement**

The development hereby approved shall be carried out in strict accordance with the approved Arboricultural Method Statement.

Reason: In accordance with the submitted details and to protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Adopted Torbay Local Plan 2012-2030.

## **Low Carbon Development**

Prior to development continuing above slab level, details of how the development meets the Council's objectives set out in Policy SS14 regarding low carbon development, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In interests of low carbon development and in accordance with Policy SS14 of the Adopted Torbay Local 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**

- C4 – Trees, Hedgerows and Natural Landscape Features
- DE1 – Design
- DE3 – Development Amenity
- ER1 – Flood Risk
- ER2 – Water Management
- H1 – Applications for New Homes
- H2 – Affordable Housing
- NC1 – Biodiversity and Geodiversity
- SS3 – Presumption In Favour Of Sustainable Development
- SS11 – Sustainable Communities
- TA1 – Transport and Accessibility
- TA2 – Development Access
- TA3 – Parking Requirements
- TE5 – Protected Species Habitats and Biodiversity
- TH2 – Designing Out Crime
- TH8 – Established Architecture
- TH9 – Parking Facilities
- THW4 – Outside Space Provision
- TS4 – Support for Brownfield and Greenfield Development