

Friday, 31 December 2021

PLANNING COMMITTEE

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

Monday, 10 January 2022

commencing at **4.00 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 Chris Lewis

Councillor Hill

Councillor Mills

Together Torbay will thrive

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

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

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 13 December 2021.

(Pages 4 - 6)

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. **Land at Brokenbury Farm, Galmpton, Brixham P/2021/0658**

Formation of a solar farm & associated equipment to include installation of fencing, CCTV, landscaping & ecological mitigation

(Pages 7 - 37)

6. **Riviera International Conference Centre, Chestnut Avenue, Torquay TQ2 5JU P/2021/0458**

Use of disused tennis courts as climbing facility with climbing frames and clubhouse structures. (Amended plans received 27.09.21.)

(Pages 38 - 56)

7. **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))

(Pages 57 - 82)

& E(c). Erection of public toilet, 3 new coach bays and associated public realm (description amended 10.09.2021)

8. **Pavilion, Vaughan Road, Torquay P/2021/1167** (Pages 83 - 93)
Repair works and alterations to include exposure of structural steel frame, concrete terraces with embedded steel structure, faience facade and further investigations into damage caused by water penetration
9. **50 Victoria Street, Paignton, TQ4 5EQ P/2021/0410** (Pages 94 - 103)
Installation of free standing advertising unit (FSU), containing back to back digital displays.
10. **Land Off Orchard Way, Edginswell Torquay P/2021/1024** (Pages 104 - 129)
Construction of retail unit (Class E(a)), including mezzanine floor and external display area, secure servicing compound, car parking, trolley bays, mobile catering unit (sui generis), landscaping and associated works.
11. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
12. **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, 5 January 2022. 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

13 December 2021

-: Present :-

Councillor Pentney (Chairman)

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

82. 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 Councillors Hill and Barbara Lewis.

83. Minutes

The Minutes of the meetings of the Planning Committee held on 11 October and 8 November 2021 were confirmed as a correct record and signed by the Chairman.

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

The Committee considered an application for the demolition of existing coach station building, café and toilets and creation of five new commercial light industrial units (Use Classes E(g) and E(c)) and the erection of public toilet, three new coach bays and associated public realm.

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 Rodney Horder addressed the Committee in support of the application on behalf of the Torquay Neighbourhood Forum and Mr Kevin Mowat addressed the Committee in support of the application.

Resolved:

That the application be deferred to enable the Committee to consider the response from the Environment Agency in respect of flooding once it has been received.

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

The Committee considered an application for the redevelopment of 31 apartments and an office building with 43 rented apartments including a mix of 15 x one and 28 x two bed apartments, including up to 9 age restricted apartments and associated landscaping, access and parking.

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 Rodney Horder addressed the Committee in support of the application on behalf of the Torquay Neighbourhood Forum.

Resolved (unanimously):

Approved subject to:

1. the conditions set out in the submitted report;
2. the completion of the Nominations Agreement; and
3. 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 for Planning, Housing and Climate Emergency.

86. Waterside Holiday Park, Dartmouth Road, Paignton TQ4 6NS P/2021/0706

The Committee considered an application for the construction of a new raised external decking structure to the north and east of the existing clubhouse building. Conversion of the existing clubhouse building to contain a new indoor swimming pool, bar and restaurant area, staff accommodation and back of house spaces. Conversion the existing "Smugglers Inn" building to provide 2 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 4 static caravans. Demolition of existing lodge and dwelling adjacent to Dartmouth Road and the construction of 3 static caravans.

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 Ian Butter addressed the Committee in support of the application.

At the meeting the Planning Officer advised that, since the report had been published, a consultation response had been received from Natural England confirming that they had no comments to make, no response had been received from the Environment Agency and one additional letter of support had been received which raised no new material considerations.

Resolved (unanimously):

Approved subject to:

1. resolution of a flood risk to the satisfaction of officers;
2. the completion of a Section 106 unilateral undertaking for the holiday units towards mitigating in-combination recreational impacts on the South Hams Area of Conservation;

3. the conditions set out in the submitted report; and
4. 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 for Planning, Housing and Climate Emergency.

87. 21 Old Mill Road, Torquay, TQ2 6AU P/2021/1215

The Committee considered an application for the conversion of an existing building into five houses, one flat and one maisonette, with the demolition of existing classrooms to form four dwellings. Revision to approved Planning Application Nos. P/2019/0919 and P/2021/0550.

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 Rodney Horder addressed the Committee in support of the application on behalf of the Torquay Neighbourhood Forum and Mr Simon Blake addressed the Committee in support of the application.

At the meeting the Planning Officer advised that a low carbon statement had been received from the applicant and the details of the statement were read out to the Committee.

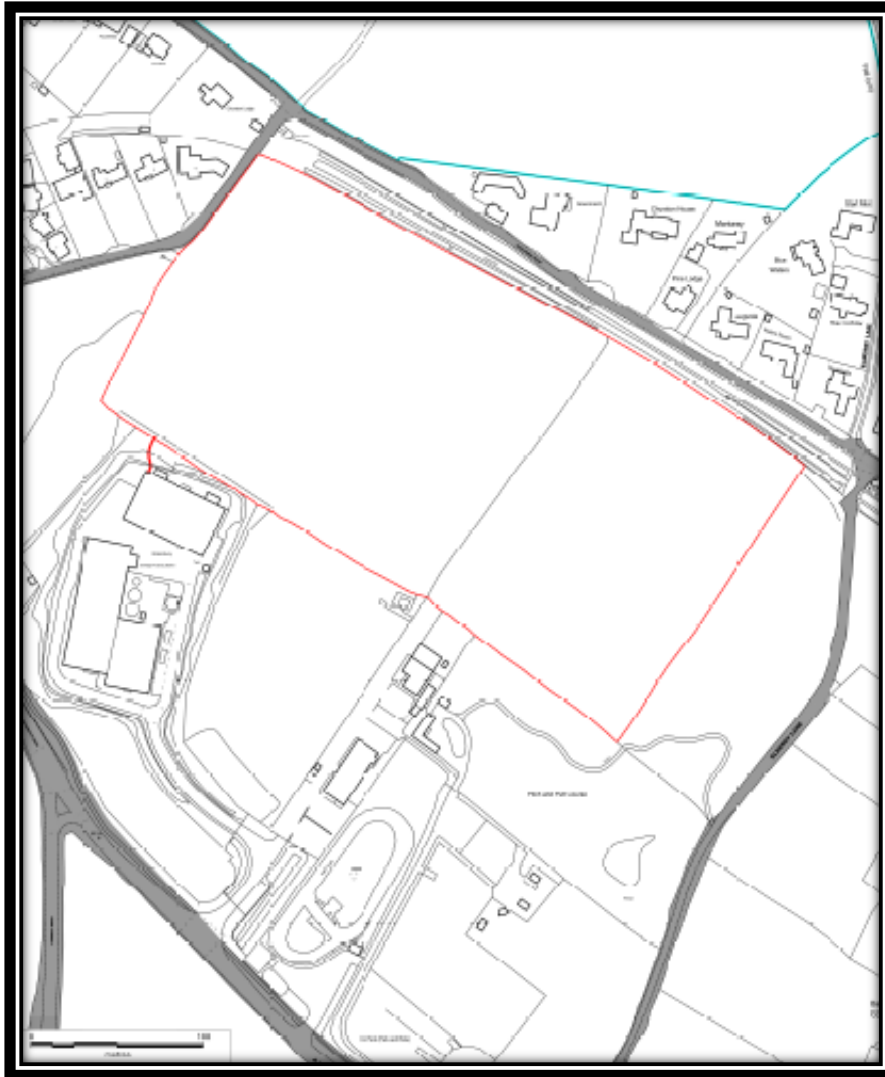
Resolved (unanimously):

Approved subject to:

1. the conditions set out in the submitted report; and
2. 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 for Planning, Housing and Climate Emergency.

Chairman

Application Site Address	Land at Brokenbury Farm, Galmpton, Brixham
Proposal	Formation of a solar farm & associated equipment to include installation of fencing, CCTV, landscaping & ecological mitigation..
Application Number	P/2021/0658
Applicant	TDA
Agent	Fisher German LLP
Date Application Valid	28.05.2021
Decision Due date	27.08.2021
Extension of Time Date	
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 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 is located to the south of Bascombe Road and to east of Bridge Road. The application site area is 6.7 ha and comprises of two arable agricultural fields with no existing structures on site. There are residential dwellings to the north, north-east and north-west of the site.

The northern boundary is adjacent to a disused railway, the Churston Railway County Wildlife Site. To the east and south is a small pitch and putt golf course, there is a farm shop to the south. South West Water treatment works is located to the south west.

The site is bound on all sides by established hedgerows and trees which screen views to the site from the residential environment to the west off Bridge Road, and north off Bascombe Road.

The site does not contain any designated heritage assets and lies approximately 100m to the west of the Churston Ferrers Conservation Area. There is however some evidence of Bronze Age works within the site. The Devon County Archaeologist advises that finds such as this are rare in Devon and that part of the site should be considered as a non-designated heritage asset.

The site is within the Greater Horseshoe Bat sustenance zone. Bascombe Road (including hedgerows) is recognised as a 'Locally Important Site for Wildlife and Geology' and the South West Water Treatment Works, Brokenbury Quarry site, is designated as a Regionally Important Geological Site (RIGS) (Policy NC1 from within the adopted Local Plan).

The application site is located approximately 300m to the east of the AONB boundary. The site is within Flood Zone 1, an area at very low risk of surface water flooding.

There are no Public Rights of Way within the site. A National Trail route runs along Bridge Road and Bascombe Road.

In terms of Local Plan designations, the site is within the Countryside Zone and an area of search for a sport facility. However, the allocation in the Brixham Peninsula Neighbourhood Plan is as a Settlement Gap.

Description of Development

The application proposes the formation of an array of photovoltaic panels which, along with the associated access track, hardstanding and built development would cover approximately 1.4 ha of the western field. The array would be within a wider fenced area extending to 3.5ha. The photovoltaic solar panels are low profile and appear as black cells. The panels are mounted and have a maximum height of 2.89m from ground level.

The development would consist of rows of PV solar panels from west to east across the site which would be orientated to face south towards the sun. The proposed development is divided into two banks of panels divided by a 5m wide maintenance gravel access track. The panels do not need to be fixed onto a concrete base and therefore limited excavation is required, this also means that they can be removed with relative ease and the land returned to its previous state if necessary.

The proposal also includes some ancillary buildings which include a transformer kiosk and switch gear kiosk, and two battery storage container units to be located in the south-west corner of the site. The height of the two proposed kiosks is to be 3.5m and the façade of the kiosk will be brick. The proposed battery storage unit container will be housed within a storage container measuring 2.6m in height and 12m in length. The solar array will be enclosed with dark green perimeter fencing with a maximum pole height of 2.1m and fence height of 2m for health, safety and security reasons and CCTV poles will be sited around the perimeter to monitor the site.

The proposed development includes comprehensive landscaping proposals around the perimeter of the western field, and the south-east field. Approximately 2ha will remain in agricultural use and provide ecological mitigation at the margins.

Access to the site is currently achieved via a gated entrance on Bridge Road along the western boundary of the site utilised by agricultural vehicles.

It is proposed that the adjacent SWW facility will use the electricity generated onsite, with any surpluses fed to the National Grid increasing the amount of clean renewable energy generated and consumed locally.

Pre-Application Enquiry

Pre-Application Advice was provided by Torbay Council in September 2020. The advice indicated that the application would require a Habitat Regulation Assessment Appropriate Assessment, because mitigation will be required in relation to greater horseshoe bats and that a Landscape Impact Assessment would be required to

assess landscape impact. The pre-application response acknowledges that Torbay Council declared a Climate Emergency in June 2019 and that the provision of renewable energy must be given substantial weight. Early engagement with the Brixham Peninsula Neighbourhood Plan Group was recommended.

Overall, the without prejudice view, at the pre-application stage, was that the proposed development would gain officer support subject to consultations and the outcome of survey work.

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 Brixham Peninsula 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

Seventeen objections have been received from fourteen households .

The key issues raised by objectors are as follows:

- Proximity to residential area and school – loss of amenity
- Health and safety, electro-magnetic radiation and fire risk
- Highways danger
- Impact on AONB and Countryside Zone
- Impact on ecology
- Contrary to Local Plan and Brixham Peninsula Neighbourhood Plan
- Impact on significance of prehistoric features

Summary of Consultation Responses

Historic England - No objection

Torbay Council Senior Tree and Landscape Officer –

Having reviewed the submitted arboricultural information the project is sustainable from an arboricultural perspective. We will require a compliance condition for the submitted Tree Protection Plans and a pre-commencement AMS for the sequence of operations and site inspection frequency.

Sport England – No comment received

Environment Agency - No comment received

Torbay Council Drainage Engineer – no objection

Brixham Town Council – Object on the grounds of the proposal having a detrimental impact on the amenity of neighbours and “negatively impact nearby developments.”

RSPB – No objection

DCC Archaeology – No objection subject to a pre-commencement condition regarding the submission of an archaeological written scheme of investigation and the implementation of a programme of archaeological works in order to ensure the retention of the Iron Age enclosure.

DCC Ecology – No objection. An HRA/AA has been undertaken which confirms that subject to the mitigation measures being secured, the proposal will have no adverse effect on the integrity of the South Hams SAC alone or in combination with other proposals or projects.

Natural England –No objection, subject to appropriate mitigation being secured through condition.

SWW – no objection, advice on asset protection provided.

Climate Emergency Officer -

“There is a clear and compelling rationale to mitigate and adapt to a changing climate, which is why Torbay Council declared a climate emergency in June 2019 and committed, to becoming a Carbon Neutral (CN) council and working with others to create a carbon neutral community by 2030 (Torbay Community and Corporate Plan (2019-2023)).

Nationally the UK is committed to achieving net zero by 2050, and to a 78% reduction in greenhouse gases by 2035. A raft of policies and strategies highlight the importance of generating clean low/zero carbon energy in meeting these targets. Locally this is also reflected in the adopted Torbay Energy and Climate Change Strategy (2014-19).

In order to achieve national and local net zero and carbon neutral targets, one of the key things we will need to do is to change the way we power our homes and businesses. This will mean rapidly increasing the amount of low carbon and renewable energy generated across the UK, including, where appropriate, in Torbay. This will be from a range of sources including solar energy.

Currently renewable energy production in Torbay is limited, and mainly from small roof mounted solar photovoltaic panels which provide just 1.6% of Torbay's current electricity consumption. This proposed solar scheme on land at Brokenbury Farm is predicted to generate 2.7 megawatts of clean electricity through a ground mounted solar array. It is proposed that SW Water will use this electricity onsite, with any

surpluses fed to the National Grid. Such a scheme will increase the amount of clean renewable energy generated and consumed locally.

At present our national energy system is decarbonising but is not yet fully powered by renewable energy sources. This results in carbon dioxide being emitted at the point of electricity generation. By generating a predicted 2.7 megawatts of clean electricity, this proposed scheme will therefore help play a role in reducing Torbay's carbon emissions and help achieve its carbon neutral 2030 target.

Police Liaison Officer – no objection

Torbay Council Highways Consultant - *Based upon the information submitted by the applicant at the time of writing, the Highway Authority offers no objection to the proposed development on the condition that: the extent of hedge identified in red on drawing (ref. 3495.ENG.12) is removed to achieve the required visibility splays prior to commencement of construction.*

As noted in paragraph 4.6.3 of the submitted CTMP the applicant will also be required to submit, prior to commencement of construction, a Traffic Management Plan for agreement with the Local Highway Authority. This should include the relevant traffic management controls requested as part of this document and will be applicable to all employees and sub-contractors involved with construction.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Development
2. Visual Impact and Landscaping
3. Impact on Residential Amenity.
4. Impact on Highway Safety.
5. Ecology and Biodiversity
6. Low Carbon Development and Climate Change
7. Archaeology

1. Principle of Development

A key issue in considering the principle of this development is the Local Plan and Neighbourhood Plan designations for the site.

The site is designated as Countryside Area in the Local Plan to which Policy C1 applies. This policy restricts development that would result in the loss of open countryside or create urban sprawl. However, Policy C1.8 states that “appropriate renewable energy development” can be suitable in the Countryside, provided that the rural and landscape character, wildlife habitats, green corridors and historic features are not adversely affected, and necessary mitigation measures are carried out.

The Local Plan also refers to the site as an area for ‘Proposed Sports Facilities - Area of Search’ (Policy SC2.6). The Brixham Peninsula Neighbourhood Plan (BPNP) did not reiterate the Local Plan’s allocation as an area of search for sports facilities and designates the site as a ‘Settlement Gap’ between Galmpton and Churston Ferrers (Policy E3).

Policy E3 advises that within the settlement gaps development proposals must meet the criteria set out in Policy C1 of the Torbay Local Plan and that no development that visually and or actually closes the gaps between these urban areas will be supported. The Policy justification goes on to state that these separating countryside strips, or “settlement gaps” provide:

- an open characteristic to the area which draws in views of distant landscapes;
- separation which prevents coalescence and the merging of settlements; or
- corridors which physically connect to and interact with the wider countryside

Although these issues will be considered in more detail later in this report the introduction of a solar farm will have some impact on the open character of the site, albeit less than housing or other development. It would therefore appear that there would be conflict with Policy E3 of the BPNP in landscape terms. This would however need to be weighed against other development plan policies and material considerations, including Policies SS14 and ES2 of the Local Plan and BH7 of the BPNP.

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 BH7 of the Brixham Peninsula Neighbourhood Plan advises that new development is encouraged to incorporate, adaptive technologies, eco-innovation and other measures to combat climate change and enable sustainable lifestyles.

Local Plan Policy ES2 states that the Council will support, in principle, proposals for new renewable and low-carbon energy generating systems at all scales, including district heat and power and community projects. The wider environmental, community and economic benefits of proposals of these systems will be given great weight. Proposals for renewable and low-carbon infrastructure will be considered against other Policies in the Local Plan. It goes on to advise that development will not be permitted where the negative impacts of the proposal outweigh the benefits of the scheme. In particular, provision of new renewable energy infrastructure will only be approved where the Council has ascertained that it would not have an adverse effect on the integrity of any site protected under European legislation

Chapter 14 of the NPPF relates to meeting the change of climate change, para 152 states that the planning system should support renewable and low carbon energy and associated infrastructure. Torbay Council declared a climate emergency in June 2019 and committed, to becoming a Carbon Neutral council and working with others to create a carbon neutral community by 2030 (Torbay Community and Corporate Plan (2019-2023)).

The Councils Climate Emergency Officer has advised that renewable energy production in Torbay is currently limited and mainly from small roof mounted solar photovoltaic panels which provide just 1.6% of Torbay's current electricity consumption. The proposed solar scheme is predicted to generate 2.7 megawatts of clean electricity through a ground mounted solar array. The generation of clean electricity provided by this scheme will help play a role in reducing Torbay's carbon emissions and help achieve its carbon neutral 2030 target.

As previously noted there is likely to be some conflict with Policy E3 of the BPNP (although this will be considered in more depth later in the report) however in principle the proposal accords with the development plan taken as a whole and even if there is some conflict with Policy E3, the Climate Emergency and related policies in the Local Plan as well as Chapter 14 of the NPPF represents material consideration which tip the balance in favour of the proposal in principle. This broad position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of this assessment.

2. Visual Impact and Landscaping

Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. As previously noted, Policy E3 advises that within the settlement gaps development proposals must meet the criteria set out in Policy C1 of the Torbay Local Plan and that no development that visually and or actually closes the gaps between these urban areas will be supported. The Policy justification goes on to state that these separating countryside strips, or “settlement gaps” provide:

- an open characteristic to the area which draws in views of distant landscapes;
- separation which prevents coalescence and the merging of settlements; or
- corridors which physically connect to and interact with the wider countryside

Policy E6 of the BPNP states that proposals for developments which affect these views and vistas should demonstrate that landscapes are safeguarded with their importance and be accompanied by a visual impact assessment appropriate to the size and scale of the proposal. The site is recognised for its role in providing views towards Churston Village (E6.6). As per the requirements of Policy E6, a Landscape and Visual Impact Assessment (LVIA) has been carried out to understand the potential effects of the proposals on the landscape character and the visual context.

The site is located outside the South Devon AONB which is some 300m to the east of the site. The Site is located within the Devon Landscape Character Area LCT 3B:

Lower rolling farmed and settled valley slopes. Within the more local Torbay Landscape Character Assessment the Site is located within landscape character areas LCT 1 Rolling Farmland and, at more detailed level, Area of Local Character: 1P South Galmpton and Lupton.

The majority of the field area to the north-west will be subject to development, but the existing site boundary hedgerows and trees will not be affected or altered, and the surface of the field will change to permanent grassland from the changing crops associated with arable farming. The field within the south-east of the site will not be subject to any additional built form.

The submitted LVIA describes the local and wider landscape context to the site as strongly defined as a contained area due to its low lying topography and strongly vegetated boundaries on all but its western side where it abuts an urban area.

Further strengthening is proposed to a length of the boundary hedgerow to the west with new native species hedgerows, tree planting and shrub planting is proposed to increase the height and thickness of the existing hedgerow and to provide greater screening in views gained from Bridge Road towards the north-west of the proposed development on site. The proposed planting measures will provide strengthened visual screening of the development on site over time as they establish and mature.

A new hedgerow is proposed alongside the northern side of the proposed security fence and groups of trees alongside the northern site boundary are proposed. These will aid in strengthening the existing screening provided by the woodland belt running adjacent to the north boundary of the site to glimpsed views gained by drivers, cyclists and pedestrians using Bascombe Road. Views above the woodland into the site in this location from the first floors of residents of two houses along the northern side of the road will also be further screened.

Glimpsed views gained by pedestrians using the publicly accessible path within Churston Golf Club course to north of Bascombe Road will similarly be further screened by the above measures. Over time and as the landscaping measures mature, the views will be fully screened and the predicted visual effect reducing.

The LVIA advises that the predicted level of visual effect of the proposed development and landscape mitigation, is negligible to the South Devon AONB, landscape character areas LCT 1 Rolling Farmland and Area of Local Character: 1P South Galmpton and Lupton, Site Local Context Landscape Character, Site Wider Context Landscape Character.

The submitted LVIA lists the landscape mitigation measures set to strengthen the visual screening from the local area viewpoints (in particular View Point E6.6 of the BPNP). Whilst the ground mounted solar panels are relatively low-lying, the development includes landscape strengthening to the hedgerows to screen the site from cyclists, walkers and road users along Bridge and Bascombe Road. The landscape proposals will provide additional hedgerow and tree landscape features which will mature and grow over time and be in keeping with the existing landscape on site and the local landscape context. The LVIA advises that current site has an almost wholly enclosed character separating it from the local landscape and will only materially affect the existing site landscape character, and not alter the existing local or wider context landscape character.

The LVIA advises that the proposed scheme will result in a moderate change to the landscape character of the site, but that this would only be a barely perceptible, negligible change to the characteristics of the landscape local and wider context character areas, and as the proposed landscape planting measures mature, the effects will lessen further.

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 Registered Park and Garden, Lupton Park and its Listed Building are some 85m to the south-west of the site. Additional information was provided with regards to the potential impacts on Lupton Park Registered Park and Gardens which are some 400m to the south-east of the site. The conclusion of this was that the proposals would result in no harm to the significance of the Grade II* Registered Park and Garden Lupton Park and its Listed Buildings, in accordance with the NPPF.

Historic England have confirmed that they agree there would be no resulting harm to the Registered Park and Gardens from the proposed development.

The key landscape issue, and a key issue to this application, is whether the solar farm would visually or actually close the settlement gap. The LVIA concludes that there would be some local impacts resulting from the addition of the solar panels and ancillary development, particularly from the viewpoint E6.6 of the BPNP which looks from a field gate on Bridge Road across to Churston Village. However, subject to the landscaping mitigation, wider visual impacts and those from the AONB appear to be minimal. When considering the relatively low height of the solar panels and the additional landscaping it would be reasonable to conclude that the physical closing of the settlement gap would not translate to a broad visual closing of the gap from wider views of the landscape. Nonetheless, the view from the field gate on Bridge Road would be altered and the impact of this needs to be considered against the clear benefits of clean energy production. It is considered that, despite there being some conflict with Policy E3 (and E6 to an extent) of the BPNP, the proposal accords with the development plan taken as a whole. Notwithstanding conflict with Policy E3 the accordance with other policies in the Local Plan and BPNH, plus the Climate Emergency and Chapter 14 of the NPPF tip the balance in favour of the proposal.

It is considered that the proposed appearance, landscaping, layout and scale of the development 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 provide a satisfactory form of development in accordance with Policies SS8 and C1 of the Torbay Local Plan, Policy E3 of the BPNP and the NPPF.

3. Impact on Residential and Local Infrastructure Amenity

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring occupiers and surrounding users, the closest of which are to the north of the application site.

A Glint and Glare Assessment has been submitted with the application which assesses the possible effects of glint and glare from the proposed solar panels on surrounding road users, dwellings, the school and associated railway infrastructure.

This concluded that there would be no significant impacts and so subsequently no mitigation measures were required.

In terms of roads, the assessment advises that the glint and glare modelling has shown that solar reflections are geometrically possible towards five receptors, totalling approximately 500 metres along the A3022, and no receptors along the A379. However, no effects are predicted to be experienced by a road user along this section of the A3022 in practice due to intervening screening in the form of existing vegetation, commercial buildings, and/or surrounding dwellings.

The glint and glare modelling has shown that solar reflections are geometrically possible towards 43 out of the 64 assessed dwelling receptors. However, the assessment predicts that no effects will be experienced by an observer in any of the dwellings in practice due to intervening screening in the form of existing vegetation, commercial buildings, and/or other surrounding dwellings.

Based on the distance of the railway line from the proposed development, the glint and glare assessment concludes that there would not be a significant impact upon the safety of railway operations.

In terms of safety and particularly in relation to fire, the energy storage system used is designed for grid energy storage and comes with multiple safety precautions to avoid thermal runaway which is the main fire risk of using batteries in grid storage. These include a control system that monitors the input of energy into and the output of energy from the batteries to ensure the rating of the batteries is never exceeded. Groups of battery units will be fused to limit the current flow in those sections and fuses will blow before the batteries are subjected to excessive current that could cause batteries to heat up excessively. The charge monitoring unit will ensure the batteries are not over charged, and usually hold the maximum state of charge at least 5% under the rated capacity of the battery units but this will be specific to the battery technology used and the manufacturers recommended charging requirements. The battery units will also have a built-in cooling system designed to keep the cells at the desired operating temperature.

The battery storage units are also designed to identify excessively hot battery units before a fire starts. In this event the system would shut down and start a venting system to extract the warm hot air.

The construction phase will naturally result in some temporary impacts 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 neighbouring occupiers, in accordance with Policy DE3 of the Torbay Local Plan.

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 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.

Access for the development will be achieved via an existing gated access off Bridge Road, which is currently used for agricultural vehicles. It is proposed to widen the existing access to 6.1m to accommodate construction vehicle movements. Post-

construction phase, the applicant has stated that the access will be infrequently used for maintenance purposes.

The applicant has submitted traffic speed data which has identified an 85th percentile speed of 24.98mph and 26.57mph westbound and eastbound respectively. Based upon these recorded speeds the applicant has provided visibility splays to show a 'Y' distance of 33m and 37m respectively. The applicant has submitted a visibility splay drawing which identifies an 'X' distance of 2.4m. The Councils Highways consultant has confirmed that this is acceptable subject to a condition to ensure an extent of hedge is removed to achieve the required visibility. Highways have confirmed that they have no objection to the development subject to the submission, of a Traffic Management Plan for agreement with the Local Highway Authority prior to commencement of development.

The proposal is considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, Policy BH8 of the Brixham Peninsula Neighbourhood Plan and 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 site is within the Greater Horseshoe Bat Sustenance Zone for the South Hams SAC associated with the Berry Head SSSI designated roost. Greater Horseshoe bats were recorded in low numbers, mainly around the boundaries of the southern field, including the southern end of the central hedgebank and north-eastern boundary of this field, with very infrequent use of the north-western boundary. The grassland habitat in the centre of the field does not offer GHB foraging habitat.

The northern boundary will be enhanced as a "green lane" in order to protect it as a sheltered, dark commuting corridor for bats. There will be a minimum of a 5m buffer of semi-natural habitats proposed between the solar park perimeter security fencing and the northern boundary to protect this as a commuting corridor. A new native

species-rich hedgerow will be created along the north-eastern and south-eastern boundaries of the solar park, creating a double parallel hedgerow along the top part of the central boundary between the two fields and between the hedgerow and woodland edge. Native species-rich grassland will be created within field margins which will provide enhanced foraging opportunities.

An HRA/AA has been undertaken which confirms that provided the mitigation measures (as set out in Section 14 of the HRA/AA) are secured by condition, there will be no adverse effect on the integrity of the South Hams SAC alone or in combination with other proposals or projects.

The site is within a Cirl Bunting consultation zone, one Cirl Bunting territory was recorded onsite during summer 2020 Cirl Bunting surveys. The proposal will cause a small loss of potential Cirl Bunting habitat (6m hedgerow habitat). The grassland within the site is deemed to offer negligible foraging habitat for Cirl Bunting. All other suitable vegetation for Cirl Bunting's will be retained and enhanced. In terms of mitigation a new native species-rich hedgerow will be created along the north-eastern and south-eastern boundaries of the solar park, creating a double parallel hedgerow along the top part of the central boundary between the two fields and between the hedgerow and woodland edge. Native species-rich grassland will be created within field margins which will provide enhanced foraging opportunities for Cirl Buntings. The mitigation measures will be secured via conditions.

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. 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.

As noted earlier in this report, Local Plan Policy ES2 states that the Council will support, in principle, proposals for new renewable and low-carbon energy generating systems at all scales, including district heat and power and community projects. The

wider environmental, community and economic benefits of proposals of these systems will be given great weight. Proposals for renewable and low-carbon infrastructure will be considered against other Policies in the Local Plan. It goes on to advise that development will not be permitted where the negative impacts of the proposal outweigh the benefits of the scheme. In particular, provision of new renewable energy infrastructure will only be approved where the Council has ascertained that it would not have an adverse effect on the integrity of any site protected under European legislation.

The proposal is predicted to generate 2.7 megawatts of clean electricity which will help play a role in reducing Torbay's carbon emissions and help achieve its carbon neutral 2030 target.

The development is in accordance with Policy SS14 and ES2 of the Torbay Local Plan Policy BH7 of the BPNP and advice contained within the NPPF.

7. Archaeology

Policy SS10 of the Local Plan states that development will be required to sustain and enhance those monuments, buildings, areas, walls and other features which make an important contribution to Torbay's built and natural setting and heritage, for their own merits and their wider role in the character and setting of the Bay. This includes all designated and undesignated heritage assets, including scheduled monuments, historic buildings (both nationally listed and of local importance), registered historic parks and gardens, conservation areas, and archaeological remains. All heritage assets will be conserved, proportionate to their importance. Policy BE1 of the BPNP advises that proposals which affect non-designated heritage assets must comply with the relevant Local Plan policies and the NPPF.

The archaeological evaluation of the site confirms the presence of an enclosure, of early Iron Age date, in the north-west part of the proposed development area. Sites of this type and date are very rare in Torbay and also rare in wider Devon. This and the preservation of pottery and bone, as well as some internal cut features as well as the main ditch, suggest that it should be considered as a significant non-designated heritage asset. The evaluation suggests that the remainder of the site does not

contain any significant archaeological constraints. Historic England have advised that they do not consider the site is worthy of Ancient Scheduled Monument status.

Consideration was given to altering the siting of the solar panels in the north-west section of the site however the additional increase in installation costs in terms of additional cabling and security fencing would mean that the scheme may not go ahead. As the solar panels are 'temporary' structures on the site in terms of their installation, an alternative solution which involves a 'no dig' engineered means of installation which would not impact on the area of archaeological importance beneath. The no dig engineered method is deemed to be an acceptable one and will be subject to a pre-commencement condition requiring the details of such a scheme to be submitted to the LPA for approval. Once this scheme is received the Devon County Council Archaeologist will be consulted for his approval. A pre-commencement condition regarding the submission of an archaeological written scheme of investigation and the implementation of a programme of archaeological works is deemed necessary in order to ensure the retention of the Iron Age enclosure.

Subject to the addition of suitably worded conditions, the proposal would have an acceptable impact on archaeology on the site and would accord with Policy SS10 of the Local Plan, Policy BE1 of the BPNP and guidance within the NPPF.

Other matters

Objections have been raised on the grounds of health and safety, in particular electro-magnetic radiation and fire risk. There is no clear evidence to suggest that either of these matters present a significant risk to health and safety and are not reasons which could reasonably be used to refuse the grant of planning permission.

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

Any surplus energy produced by the solar farm will be fed back into the grid to provide clean energy for consumers.

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 neutral.

The Social Role

The generation of clean electricity provided by this scheme will help play a role in reducing Torbay's carbon emissions and help achieve its carbon neutral 2030 target.

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

The Environmental role

With respect to the environmental role, the proposal would provide clean electricity to aid in fighting climate change. The proposal also includes ecological and landscape improvements. The generation of clean electricity provided by this scheme will help play a role in reducing Torbay's carbon emissions and help achieve its carbon neutral 2030 target.

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

Sustainability Conclusion

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

HRA

HRA: The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC. An HRA has been undertaken and the competent authority is satisfied that the development, as proposed, with all the avoidance and mitigation measures secured by condition, being implemented in full, will not

adversely affect the integrity of South Hams SAC either alone or in-combination with any other plans or projects. The competent authority is satisfied there is no requirement to progress to Stages 3 and 4 of the HRA process.

EIA

As the site is over 5ha in area an Environment Impact Assessment screening was undertaken, the result of this was that the proposal did not require an EIA.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme would address the Development Plan aspiration towards sustainable development and the Councils Climate Emergency status and, notwithstanding some conflict with Policy E3 of the BPNP, would produce a positive impact overall and help with the supply clean energy and thus reducing Torbay's carbon emissions.

Statement on Human Rights and Equalities Issues

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

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

Conclusions and Reasons for Decision

The proposal is considered acceptable in principle and would not result in unacceptable harm to the character of the area, local amenity., heritage assets, biodiversity or highway impacts. It will have positive environmental benefits.

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

Officer Recommendation

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

Siting, form and materials

Solar Panels and the associated infrastructure shall only be located in the area of the site as indicated on the approved drawings and the details of the solar panels including height and materials shall accord with the approved details at all times.

Reason: In the interests of amenity and biodiversity in accordance with Policies DE1, DE3 and NC1 of the Torbay Local Plan.

CMS

No development shall take place until a site specific Construction/Demolition Management Plan has been submitted to and been approved in writing by the

Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:

08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development and in accordance with Policy DE3 of the Local Plan. This information is required prior to development in order to ensure that the construction phase of the development does not have an adverse impact on residential amenity.

Removal of Redundant Equipment

Any solar panel apparatus and associated structures hereby approved that subsequently become redundant shall be permanently removed from the site and the land shall be reinstated to its former condition or in accordance with details to be previously agreed with the Council.

Reason: To comply with Policy C1 of the Torbay Local Plan 2012-2030.

Archaeological Programme of Work

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Planning Authority.

Reason: To ensure that the development is undertaken in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 205 of the National Planning Policy Framework (2021). This information is required prior to commencement in order to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.

Engineering Solution

Prior to any development on site a method statement for the no dig engineering solution on the northern section of the development where sensitive archaeology has been identified shall be submitted to, and approved in writing by, the Local Planning Authority. The construction works shall be carried out in accordance with the approved method statement. Details submitted in respect of the method statement, incorporated on a plan, shall ensure no harm to the identified archaeology during the construction phase and the lifetime of the development.

Reason: To ensure that the development is undertaken in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 205 of the National Planning Policy Framework (2021). This information is required prior to commencement in order to ensure that an appropriate record is made of archaeological evidence that may be affected by the development.

Visibility Splays

Prior to commencement of construction all vegetation shall be removed from the area highlighted red on drawing (ref. 3495.ENG.12). The area shall remain clear thereafter.

Reason: In the interests of highway safety, in accordance with Policy TA2 of the Torbay Local Plan 2012-2030. The removal of vegetation is required prior to any construction on site in order to achieve the required visibility splays.

TMP

Prior to commencement of construction a Traffic Management Plan shall be submitted to the Local Planning Authority for approval. This should include the relevant traffic management controls and will be applicable to all employees and sub-contractors involved with construction. Development shall take place in accordance with the Traffic Management Plan.

Reason: In the interests of highway safety, in accordance with Policy TA2 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that traffic is properly managed from the onset of development.

Landscaping

All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the installation of the solar panels or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with Policies SS8, SS9, C4 and 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.

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, the sequence of operations and site inspection frequency, 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.

LEMP

No development shall take place, including ground works and vegetation clearance until a Landscape and Ecological Management Plan (LEMP) has been submitted to

and approved in writing by the local planning authority. The content of the LEMP shall be prepared in accordance with the specifications in BS42020; clause 11.1 and shall include the following

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

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

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

CEcoMP

Prior to the commencement of development (including ground works, vegetation clearance) a Construction Ecological Management Plan (CEcoMP) shall be submitted to and approved in writing by the local planning authority. The CEcoMP 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 CEcoMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

Lighting Strategy

Prior to the commencement of development, the applicant shall submit a detailed Lighting Strategy to the Local Planning Authority for approval. The strategy will minimise indirect impacts from lighting associated with the preconstruction, during construction and operational activities, and demonstrate how the best practice (BCT/ILP, 2018) guidance has been implemented. The approved lighting strategy shall be retained as such for the life of the development unless otherwise agreed in writing with the Local Planning Authority. Should any of the lighting become damaged and need replacement, it shall be replaced with external lighting of the same type and specification. No other external lighting shall be provided.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure appropriate mitigation at all stages of development.

Ecology

The development hereby approved shall be carried out in strict accordance with the recommendations and mitigation measures set out in Section 5 of the Ecological Impact Assessment (Burton Reid Associates, April 2021) and the Shadow Habitats Regulations Assessment (Burton Reid Associates, April 2021). Prior to the first use of the development hereby approved, the applicant shall submit written confirmation from a suitably qualified ecologist that confirms the recommendations and mitigation have been implemented.

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

Badgers

Prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures if required, shall be submitted to and approved in writing by the local planning authority.

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

Drainage

In accordance with the submitted flood risk assessment received 28.05.2021, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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

Relevant Policies

SS3 - Presumption in favour of sustainable development

SS9 - Green Infrastructure

SS10 - Conservation and Historic Environment

SS14 - Low Carbon Development and Adaptation to Climate Change

TA1 - Transport and accessibility

TA2 - Development access

DE3 - Development Amenity

ES1 - Energy

ES2 – Renewable and low-carbon infrastructure

C1 - Countryside and the rural economy

C4 - Trees, hedgerows and natural landscape features

NC1 - Biodiversity and Geodiversity

DE3 - Development Amenity

SC1 - Healthy Bay

SC2 - Sport, Leisure and Recreation

HE1 – Listed Buildings

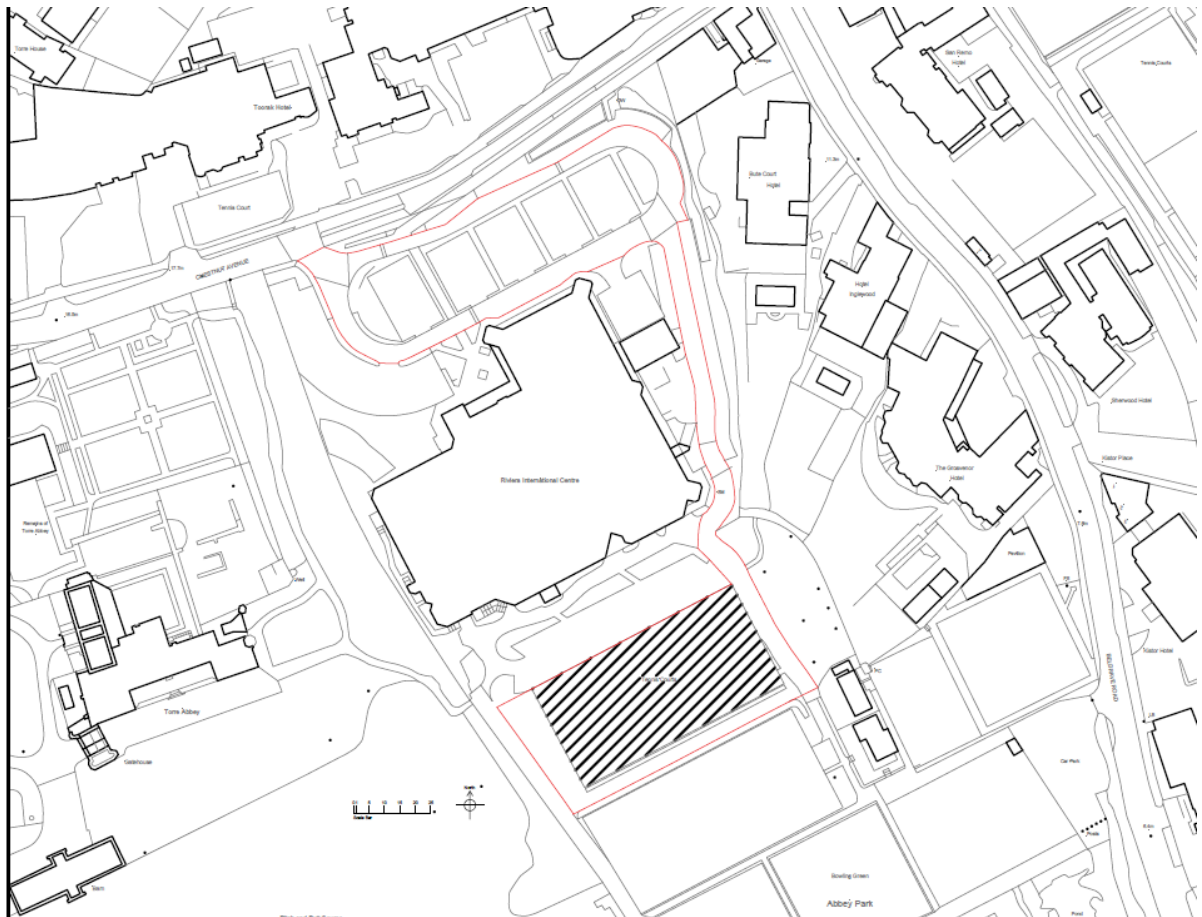
E3 – Settlement Gaps

E6 – Views and Vistas

Agenda Item 6

Application Site Address	Riviera International Conference Centre Chestnut Avenue Torquay TQ2 5JU
Proposal	Use of disused tennis courts as climbing facility with climbing frames and clubhouse structures. (Amended plans received 27.09.21.)
Application Number	P/2021/0458
Applicant	Parkwood Leisure Limited
Agent	Bidwells
Date Application Valid	15.06.2021
Decision Due date	10.08.2021
Extension of Time Date	To be agreed
Recommendation	Approval subject to: 1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections through the consultation exercise, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	June Pagdin

Location Plan –



Site Details

The application site comprises five unused tennis courts in the grounds of the Riviera International Conference Centre (RICC) in Torquay. The site measures approximately 0.3 Hectares (plus access route through the RICC carpark) and contains five hard-surfaced courts enclosed in a 3m high chain-link fence.

There are ten tennis courts on the southern side of the RICC grounds, in two rows of five. The row nearest to the RICC building is separated from it by an area of grass-concrete car parking. These five courts have not been in use for some time. The second row is to the south, on slightly higher land, and is used on a turn-up-and-pay basis operated through the nearby kiosk. Beyond to the south are the bowls greens and terraced gardens that lead down to Torquay Road and the promenade at Torre Abbey Sands.

To the east are the grounds of hotels on Belgrave Road, screened by trees in the RICC grounds and in their own gardens. To the west, beyond a line of mature mixed trees, are the grounds of Torre Abbey and the golf course.

The site is within the built-up area of Torquay, in the Core Tourism Investment Area of Torquay (Harbourside, waterfront and Belgrave Road). It lies within Belgravia

Conservation Area and is adjacent to the scheduled monument and Grade I listed building at Torre Abbey. It is within an Urban Protected Landscape Area (No 29 Torre Abbey Meadows and Sports Grounds) in the Local Plan and is designated a Local Green Space (TLGST4) in the Torquay Neighbourhood Plan. It is also covered by an Area Tree Preservation Order and lies within Flood Zone 1, within the Critical Drainage Area.

Description of Development

Full planning permission is sought to change part of the five-tennis-court area to an outdoor climbing facility to be operated all year:

- Provision of two climbing structures; one 3.7m high and one 10.5m high
- Use of timber clad storage cabin (8m x7m) as reception, changing rooms and equipment store – 3m high with stair and spectator seating area on roof
- Provision of ground level spectator seating area
- new fence around climbing facility
- 1.5m wide footpath from existing footpath on north side of courts to entrance of climbing area
- Provision of 8 cycle parking hoops
- Area to be left un-changed - two and half tennis courts.
- Opening hours April to September - 9am to 7pm, October to April - 10am to 4pm.
- Plans indicate removal of two grass-crete car parking spaces to improve pedestrian access to the hard-surfaced area (outside application site)

The scheme has been amended to position the climbing structures at the east end of the site away from the scheduled monument and to omit car parking from the application site.

Pre-Application Enquiry

N/A

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Torquay Neighbourhood Plan ("The Neighbourhood Plan")
- Healthy Torbay Supplementary Planning Document (HTSPD)

Material Considerations

- National Planning Policy Framework (NPPF 2021)
- Planning Practice Guidance (PPG)
- Published Standing Advice

- Belgravia Conservation Area Appraisal
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

P/1990/0400: Change of Use of Land for Up To 30 Days Per Annum To Allow Operation of Exhibitions/Conferences Inside A Temporary Demountable Structure. Approved 04.05.1990.

Summary of Representations

Approximately five objections and one supporting comment were received in response to the neighbour consultation and site and press notices. In addition, several objections were received from the Torbay Heritage Trust (TCHT).

The objections can be summarised as:

- Lack of disabled access to climbing facility
- Facility would fall into disrepair and could be subject of vandalism
- Structure would need repair and maintenance at a cost
- Proposal should be subject to scrutiny –
- Proposal is not clear (zip wire, climbing wall?)
- Only usable for 3 months of the year
- A year-round facility is needed to better serve people of Torbay
- Loss of tennis court – prefer tennis over climbing – should retain courts for the next generation of players

TCHT comments:

- Noise disturbing the Conservation Area, tennis court users and café users
- Loss of tennis court use
- Court area should be planted with grass and trees to screen brutal 80's architecture
- Proposal would not preserve or enhance the character or appearance of the conservation area
- Proposals are not sustainable
- The site is more part of Abbey Park than of RICC.
- Harms the setting of the Scheduled Monument -Torre Abbey the prime asset of Torquay's Heritage Culture
- Object to use of shipping containers in Abbey Park

Supporting comments:

- Love the idea of climbing frames

Other comments:

- Support the idea of a skate park in the town but not in this location

For clarification, the proposal does not include a skate park, a zip wire or a climbing wall.

Summary of Consultation Responses

Consultation responses can be summarised as:

Sport England: 18.Nov.2021. Note the loss of 2 tennis courts to an alternative sport/physical activity, based on understanding the two courts could be reinstated in the future, if there was a need. The amended proposal has potential to meet the NPPF para 99 c). Note the Council's wider strategic planning assessment and investment with the LTA on tennis in the Bay. Withdraws objection to the amended proposal.

Historic England: 18.Oct.2021. No objection to amended scheme. In NPPF terms the proposal would result in minor harm within the setting of Torre Abbey but at the low end of less than substantial. Suggested hedgerow strengthening between the site and Torre Abbey.

Devon County Council Archaeology: No objection. Initial response sought more information regarding impact on heritage assets. Amended scheme and Heritage Assessment demonstrates reduced impact on the setting of the Scheduled Monument. Additional tree planting on the boundary with the lawns in front of Torre Abbey would reduce the visual impact in winter months. However, the overall impact on the Scheduled Monument is minor and I am no longer raising any objection to the application.

Drainage Officer: 20.12.2021. No objection - the site is located in Flood Zone 1 and there will be no change to the impermeable area of the site, therefore no objections on drainage grounds to planning permission being granted for this development.

Arboricultural Officer: No objections are raised from an arboricultural perspective. There is mention of a footpath from the build to the car park – provided that all works, including enabling works and storage, are located inside the tennis courts there are no significant arboricultural concerns.

Highways and Transportation Department: 16.12.2021 No objection to the amended scheme, subject to a condition securing the cycle parking and seeking weatherproof cover.

Sports Development Officer: Currently updating the Playing Pitch strategy and there are other courts nearby. The high-ropes proposal is part of Parkwood's business plan for the RICC. The community benefit would be the provision of a new physical activity that would provide an alternative to traditional sports in a healthy pursuit in an inclusive space.

Community Safety Officer: No objection

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of development
2. Impact on Visual Amenity
3. Impact on Heritage Assets
4. Impact on Residential Amenity
5. Impact on Highway Safety
6. Flood Risk and Drainage
7. Sustainability

1. Principle of development

Full planning permission is sought for installation of a year-round, high-ropes and low-ropes climbing facility for residents and visitors including tourists.

The proposal involves change of use of five tennis courts to the climbing facility with two climbing structure and an associated cabin. The climbing facility would use approximately 45% of the courts area. The remaining area would remain open and the amended proposal omits car parking.

Healthy Torbay

The Council's Healthy Torbay Strategy aims to improve the health of the people of Torbay and tackle health inequalities. Physical activity is one of the determinants of health and the Council supports provision of healthy activities as one of the preventative measures against poor health. The Healthy Torbay Action Plan focuses on Physical activity as one of ten key priorities and identifies a key action as targeting residents' inactivity through sports and leisure provision. In addition, Policy SC1 of the Torbay local Plan supports developments that provide opportunities for physical activity for residents and visitors.

Climbing is a non-traditional activity exercising the body and mind as an alternative to tennis. The amended proposal has been laid out in an inclusive way that enables use by all age groups. The facility could be used by people with varying levels of ability from beginners to experienced and can cater for people with disabilities. Provision of opportunities to take part in this sport are within the aims of the Healthy Torbay Strategy and Action Plan and the proposal is in accordance with Policy SC1.

Sustainable Location

Policy SC2 requires new facilities to be in appropriate locations where they are accessible by a range of transport and comply with other policies of the Local Plan. The application site is located within the Riviera Conference Centre and is off Torbay Road, within 250 metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. The Riviera International Conference Centre is provided with pay and display car parking including disabled spaces in the area next to the application site. There is also on-street parking on Torquay Road. Given this positioning, the proposal is considered to be in an accessible location and to comply with Policy SC2 in this respect.

Change of use from tennis courts

Policy SC2 requires developments to provide access to sport, leisure and recreation facilities according to the demand, capacity, condition and location of existing facilities. An assessment of existing provision of such facilities will be required with development proposals proportionate to their scale to enable determination of whether a contribution is needed toward new facilities or the enhancement of existing provision.

The Policy goes on to state a presumption against the loss of existing recreational and leisure facilities unless the following criteria are met:

- i) *“An assessment has been undertaken which clearly shows the open space, buildings or land to be surplus to requirements. Or*
- ii) *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location or*
- iii) *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

This wording reiterates the policy set out in paragraph 99 of the NPPF 2021.

The Council's tennis courts playing pitch strategy is under review and is anticipated to be completed in late Spring 2022. As such, there is not a clear demonstration that the courts are surplus to wider requirements and the first criterion cannot be met at this time.

With regard to the second criterion, the current condition of the courts discourages their use and investment would be required to bring them back into use. The adjacent row of five courts is in a better condition in terms of surface, fencing, nets and floodlighting and is used by members of the public.

The Council's Sport Development Team is preparing a programme of enhancements to the adjacent five courts and is due to submit a bid to the LTA to gain match funding for these proposals. The anticipated schedule is for the near future in 2022 but could not be secured prior to the proposed implementation of the current proposal. The second criterion cannot be fully met at this time.

However, with regards to the third criterion, the proposed climbing use is an alternative sport and recreational activity that is not currently provided for. While there is an indoor facility for low level (4.3m) wall climbing and a gym in Union Street, that facility differs from the current proposal in being all at lower level, indoors and not providing harnesses. The current proposal would differ in providing a larger facility, a wider variety of heights, safety gear, fresh air and also outdoor seating for non-participants. The low and high ropes are supervised and are usable by people with disabilities. The sport is beneficial for strength, flexibility and coordination as well as confidence-building and team-working. These facilities can be popular with families and groups and are not usually available in town centre locations; most are

in out-of-town, woodland locations. The proposal would provide an outdoor facility in a central location accessible by a range of transport modes.

The proposal meets the third criterion of Policy SC2 and so satisfies the test of paragraph 99 of the NPPF 2021.

Tourism

The site is within the Core Tourism Investment Area (CTIA) of Torquay Harbour and Waterside. Policy TO1 (Tourism, events and culture) supports new tourism facilities particularly growth sectors such as sustainable tourism. The Policy supports in principle the provision of new tourist attractions especially those that are in accessible locations focusing on the Core Tourism Investment Areas.

The proposed facility would add to the range of tourist offers in this seafront location, as well as catering for residents of the area, and enable the creation of additional employment year-round. Therefore, the location within this CTIA is in accordance with Policy TO1.

Local Green Space and Urban Protected Landscape Area

The application site lies within an Urban Landscape Protection Area (ULPA) as designated in the Torbay Local Plan. Policy C5 of the Local Plan identifies that the landscape impacts of development in these areas requires assessment. This is considered in the following section of this report.

The site lies within a Designated Local Green Space (TLGST4) where Policy TE2 of the Torquay Neighbourhood Plan applies. The Policy rules out development other than in very special circumstances such as minor improvements to community access or facilities that support their use for public recreation or amateur sports. The Policy seeks a style that reflects the setting and is consistent with the LGS designation. The proposed climbing structures would introduce an accessible public recreation facility and revive this part of the Abbey Park. The cabin would be necessary in support of the climbing facility and would be finished in natural materials. The old chain link fence would be removed from around the courts and a new one installed around the climbing facility. As such, the proposal is acceptable in principle in accordance with Policy TE2. The visual impact of the structures further to Policy C5 is considered in Section 2 below.

In summary, the proposal would enhance the range of sport and recreation provisions of the RICC and Abbey Park for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan. The principle of the use is acceptable in accordance with the development plan taken as a whole.

The impacts on the urban environment, open space and heritage setting and other Policies of the Local and Neighbourhood Plans are considered below.

2. Impact on Urban Landscape

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'.

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 C5 of the Local Plan identifies that development within an Urban Landscape Protection Area (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.”*

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.

Policy TE2 pertaining to Local Green Spaces reads as follows:

“Development is ruled out, other than in very special circumstances. Very special circumstances may include facilities that support their use for public recreation or amateur sports. ... [Proposals] in a style that reflects the setting and the local area which would be consistent with the LGS designation, will be supported.”

The application site is positioned between the commercial urban structure of the RICC – a leisure and conference centre and Abbey Park.

The application site is hard-surfaced and enclosed in a 2.8-3m high chain-link fence. It is located between the RICC building and associated rear car park and the more open and elevated tennis courts. The RICC building is an example of 1980's commercial modernist design. It is approximately 22m high with a horizontal emphasis in the concrete and glazed banding of its south elevation. The RICC contains recreational facilities such as the swimming pool with flumes, exercise studios and gym. Abbey Park contains outdoors recreation facilities such as tennis, bowls, and golf (mini and pitch-and-putt). The adjacent tennis courts are on land 3m higher and enclosed by 4m high fencing with floodlight stantions. Beyond to the south are the terraces of Abbey Park, which step down to the sea front. It is within this urban context that the climbing structures are proposed.

Appearance of the proposals:

The proposal involves the installation of two climbing frames and a reception and changing cabin, removal of surrounding fence and installation of a new fence around the climbing area.

Climbing Structures:

The submitted drawings show that the lower climbing frame would be 3.4m high and the other would be 10.5m high. The low ropes would cover an area of approximately

4m x 15m and be situated on the north side of the application site. The higher ropes would cover an area of approximately 13m x 13m and site to the south of the low ropes. The existing ground surface would be retained. The structures would be built in metal. The metal struts and joists can be painted. The proposed colours are illustrated in the submitted Material Specification (P-2021-0458-26) as grey, green and clay brown. Self-coloured timber is used for the challenge sections and the ropes (with steel wire cores) would be coloured in beige, blue, green and black. These colours would be muted and not unduly prominent in the context of the park-
scape.

The proposed structures would be over 20m from the base of the RIC and 30m from the upper storeys. The structures are not solid and there is a high degree of visual permeability between the uprights and climbing elements. While they are tall, they do not present an overly dominant or overbearing form when considered against the backdrops of the RICC and tennis courts.

The cabin:

The proposed reception, office, equipment store and changing area would be in one cabin comprising three steel containers. The cabin would be clad in shiplap timber with a light oak stain. The cladding is of a colour and material that would not be intrusive and are considered to be in keeping with the setting of the tennis courts and surrounding open space. The cabin would be functionally related to and support the climbing structures.

Details of the proposed stair and railing to the cabin roof can be secured by condition. An area has been set aside for ground level seating for spectators, which does not involve any additional permanent structures.

In design terms, it is considered the cabin would be proportionate in scale to the climbing facility site area. It would sit behind the raised area containing the southern five tennis courts and would not result in a significant visual impact on its setting.

Fence:

The existing 2.8-3m high fence would be removed from around the five courts. A new fence would be installed around the climbing facility. The replacement fence measures as 2.75m high in the proposed Section drawings. The replacement fence would not be higher than the existing fence and would not be out of keeping with the setting. The type and colour of fence has not been specified. Details can be secured through a condition. The fence would leave a 1.5m wide footway along the edge of the hard-surfaced area to link with the existing path to the east.

Visual Impact

The use would reintroduce recreational activity and the visual impact of people exercising is appropriate in this setting, which is in accordance with Policy TE2 and DE1. The climbing structures, the cabin and the fence are not out of keeping with the appearance and character of the immediate context and surroundings and the proposed colours have been selected to reduce the visual impact.

The climbing structures would be visible from beyond the immediate area. Impacts on views from outside the site are considered below in terms of Policies C5 and DE1 of the Torbay Local Plan and Policies TH8 and TE2 of the Neighbourhood Plan.

Views from the Abbey Gardens back towards the RICC the proposed climbing structures would sit within the outline of the RICC building, considerably below the highest point. The selected colours and visually permeable form would not present a bulky solid form and would not be unduly dominant or intrusive in the width and height of the RICC's south elevation. Photomontages in the Heritage Assessment enable the impact of the structures to be illustrated (e.g. Figure 25).

When viewed from the seafront on Torbay Road, the Low Ropes element and cabin would not be seen due to being screened by the changes in land level. The upper sections of the High Ropes would be set within the profile of the RICC, well below the roof level and well within its width (13m compared to 95m). The submitted Section Drawing (003.006A) shows the height and width of the proposed climbing structures compared to the height and width of the RICC building.

Being set down on the lower level of land adjacent to the RICC below the level of the upper tennis courts, the visual impact of the structures on views from the sea would be reduced and the effect is limited in the context of the scale of the bay.

Views from the RICC rear ground floor windows may be impacted slightly but views from upper floors would be retained and, as set out above, the structure is visually permeable and narrower than the RICC building so that a large proportion of the views would be retained.

The site is screened from views from Belgrave Road by the existing hotel buildings (Abbey Sands Hotel), which are three and four storeys high. The High Ropes structure would be positioned over 30m from the rear boundary with that hotel and 80m from the rear of the hotel building. In addition, the boundary is planted with a line of mixed trees, some evergreen and some deciduous, of significant size and which are protected by the Conservation Area status of the location. Given the distance and screening between the two sites, the climbing structures are not considered likely to give rise an overbearing impact on the Hotel.

Overall, the proposal does not undermine the value of the extensive ULPA as a whole as an open or landscaped feature within the urban area. The design, while being functional, uses natural materials and natural colours that would not conflict with the setting. The proposal also supports the use of the Local Green Space for public recreation and would reintroduce a leisure activity to this part of the Abbey Park. The design is of a scale and style that reflect the setting. Removal of the old fencing would open up part of the site and new fencing around the climbing structures would, subject to a condition securing suitable materials, provide an

improvement to the appearance of the fencing. The proposal is, therefore, considered to comply with Policies C5 and TE2.

With regard to Policies DE1 and TH8 the proposal is not considered to be out of keeping with the local character of this part of the RICC and Abbey Park in terms of height, scale and bulk, and the choice of materials and colour are considered to reflect the identity of its surroundings.

Therefore, subject to the above-mentioned conditions over cladding and storage, the proposals are considered to be in accordance with the above cited Policies.

The impacts on heritage assets of Torre Abbey grounds and Conservation Area are considered in the section below.

3. Impact on Heritage Assets

The site lies within the Belgravia Conservation Area and is adjacent to the Torre Abbey (Grade 1 Listed Building and Scheduled Monument).

Guidance on considering the impacts on designated heritage assets is provided in Paragraphs 199 to 208 of the NPPF (2021). Paragraph 199 states that great weight should be given to an asset's conservation and the more important the asset the greater the weight should be. Paragraphs 201-202 state 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". Policy HE1 of the Local Plan requires developments to preserve the setting of listed buildings and their settings.

Scheduled Monument and Listed Buildings

Scheduled Monument (Torre Abbey ruins) and Grade I Listed Building status (Spanish Barn and Torre Abbey House) are both recognitions of an asset of great importance. Therefore, great weight is due to the preservation of Torre Abbey and its setting. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Historic England and Devon County Council's Archaeologist objected to the original proposed location of the cabins and climbing structures at the western end of the application site. The line of trees between the application site and the scheduled monument, although high, is comprised of mixed deciduous and evergreen species. It was not considered an adequate year-round visual screen between the proposed climbing structures and the Abbey's setting. They recommended that an alternative site be identified further from the Scheduled Monument in a location that would not compromise the monument's setting, which was part of the 12th Century Premonstratensian monastery's domain.

An amended location is proposed at the eastern end of the application site, further from the Scheduled Monument (approximately 100m) and Listed Buildings. A

Heritage Assessment was also submitted which illustrated the degree of visibility of the proposed development in summer and in winter from positions adjacent to the Scheduled Monument and the Listed Buildings. Devon County Council's Archaeologist and Historic England (HE) consider the impacts of the revised proposal to be minor and have no objection to the proposal.

HE did suggest enhancing the boundary planting through hedge planting but the boundary fence is beyond the application site boundary. In addition, a certain amount of intervisibility enables natural surveillance for people using the footpaths in this area.

The amended proposal is considered to be in compliance with Policy HE1 of the Local Plan Policy TH8 of the Neighbourhood Plan.

Conservation Area

The Listed Buildings and Conservation Areas Act 1990 gives Local Planning Authorities (LPAs) powers in regard to heritage assets. Section 72 requires an LPA, in determining planning proposals, to have special attention to the desirability of preserving and enhancing the character or appearance of a conservation area.

Policy SS10 of the Local Plan states that development proposals will be assessed against criteria including the need to conserve and enhance conservation areas while allowing sympathetic development within them.

The introductory section of the Belgravia Conservation Area Appraisal describes the area as containing residential suburbs, major hotels and significant amount of open space. Apart from Torre Abbey, most of the buildings date from 1860 and after. The RICC is a recent addition and quite rare example of modern architecture in this setting. The area includes coastline, parks, recreation grounds, the walled gardens of Torre Abbey, the Royal Terrace Gardens and private gardens and terraces of numerous hotels.

Therefore, a key element of the Conservation Area's character is its provision of formal and informal recreational opportunities within the historic setting. The recreational activities in the RICC grounds are an intrinsic part of that setting with pedestrian walkways and seating for spectators. The tennis courts are hard surfaced and surrounded by a 3m high chain-link fence and they make a neutral contribution to the Conservation Area at present.

Policy SS10 seeks to maintain the character of the conservation area while allowing sympathetic development. The proposal would introduce a structure to this open setting. However, as set out in the considerations of Urban Landscape, the design aims to minimise the impact on the Conservation Area and wider setting while providing recreational opportunities appropriate to the character of the conservation area.

The impact on the conservation area is considered to constitute a less than significant harm. In accordance with Policies SS10, HE1 and paragraph 202 of the NPPF (2021) the harm is to be weighed against public benefit of the scheme. These were identified in the Principle of Development section of this report as

supporting and diversifying and expanding the tourism economy and providing opportunities for healthy physical activities for residents and visitors.

Subject to the cladding of the cabins being completed prior to their installation and other recommended conditions of this report it is considered that, in this case, the public benefits outweigh the less than substantial harms.

4. Impact on Amenity

Policy DE3 requires all development to provide a good level of amenity for users and the surrounding uses in terms of noise, nuisance, and air pollution.

Main concern of objectors is potential for noise from customers using the climbing facility. The use as a climbing frame can result in people's voices being heard as they take part in the activity. However, the level of noise is not generally louder than other sports/leisure activities such as tennis when people may call out. The nearest sensitive use is the Hotel in Belgrave Road – the nearest window is over 80m away.

The proposed hours of operation are from 9am to 7pm in summer months April to September and from 10am to 4pm in winter. Consequently, subject to a condition limiting the opening hours, the proposed use is not likely to give rise to a noise nuisance at unsocial hours.

The proposal should also provide storage for containers for waste and recycling inside the cabin. Collection of waste and refuse would be included in the overall operation of the RICC.

Subject to the above-mentioned conditions the proposal is considered to be acceptable with regard to the amenities of the area further to Policies DE3 and W5 of the Local Plan.

5. Impact on Highway Safety

Policy TA1 and TA2 promote sustainable locations for new developments and require adequate accessibility and safety to meet the needs of the development. Policy TA3 seeks car and cycle parking standards to be met.

The application site is located within the RICC grounds on Torbay Road and Chestnut Road. It is on a major bus route within metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. Cycle parking is available at the Riviera Centre.

For car access, Torquay Road provides metered parking. The site is accessed from Torbay Road by a flight of stairs, from Torre Abbey grounds by a footpath and directly from the RICC rear car park.

Given this positioning, the proposal is considered to be in a sustainable and accessible location. The proposal provides an opportunity for people to experience

climbing without having to drive to a remote cliff/rock outcrop or forest. It provides opportunities for participation in this sport to those who do not have access to a car.

Policy TA2 requires layouts that contribute to footpath networks. The entrance to the climbing facility links into the footpath network around and beyond the site. The proposal involves removal of two parking spaces to enable pedestrian access directly from the rear car park into the new facility. This loss is minor and does not affect the overall parking provision for the RICC.

The Highways Section has been consulted and has no objection subject to a condition to secure the cycle parking provisions and to seek weatherproof coverings for them. An additional eight hoops, which would accommodate 16 cycles, are proposed within the application site. These can be secured through a planning condition see above.

The proposal initially included a car parking area with 56 parking spaces on the remaining two and a half tennis courts. This aspect has been removed pending the outcomes of the Council's Sports Pitches Assessment and a wider car parking assessment of the RICC site and vicinity.

Subject to this condition the proposal is considered to be acceptable further to Policies TA2 and TA3 of the Local Plan.

6. Flood Risk and Drainage

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

The site is within the Torbay Critical Drainage Area and in Flood Zone 1. A Flood Risk Assessment was submitted, stating that the existing surface water drainage system would be used. The proposal does not involve an increase in impermeable area. The facility would not be open to members of the public in flooding events or if a flood warning had been issued for this area of Torquay.

The Drainage Officer was consulted and had no objections. Subject to implementation of the FRA the proposal is in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

7. Sustainability

Policies SS14 and ES1 of the Local Plan seeks to promote a low-carbon form of development with adaptations to climate change so as to minimise carbon emissions and make more use of natural renewable resources.

The proposal is in a sustainable location where customers do not need to drive to access it. The cabins are constructed of natural materials: metal and wood. The climbing frames are constructed of similar materials.

The activity does not require carbon rich energy sources to be operated. The reception and changing cabin would use electricity to operate (e.g. internal lighting and operation of office functions) - the source of which would be from the general grid, which increasingly is supplied from renewable sources.

The proposal is considered to comply with Policies SS14 and ES1,

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.

With regards to people with mobility disabilities, the applicant has amended the scheme to provide level access and seating for spectators at ground level for those who are not able or willing to climb to the roof top spectator area.

Local Finance Considerations

S106: Not Applicable

CIL: Not Liable

Conclusions and Reasons for Decision

The proposal would enhance the range of sport and recreation provisions of the RICC and Abbey Park for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan.

The visual impacts and identified harms to the setting of the Torre Abbey Scheduled Monument and Grade I listed Building are at the lower end of less than substantial. these harms are considered to be outweighed by the public benefits of the proposal to create accessible and inclusive recreation facilities. The proposal is, therefore, considered to be in accordance with the development plan taken as a whole, subject to conditions over the use, appearance and management of the site.

Officer Recommendation

Approval subject to:

1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Draft Conditions

1. Details of the materials and colour of the new fencing around the climbing facility shall be submitted to and agreed in writing by the LPA prior to the commencement of above ground construction. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: In the interests of the visual appearance of the area including the Belgravia Conservation Area further to Policies DE1, and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

1. The cabin hereby permitted shall be clad in the manner and materials set out in the Container Specification (Drawing No P-2021-0458- 27). The climbing structures shall be finished in colours and materials set out in the Materials Schedule (Drawing No P-2021-0458- 26). The structures shall be retained in that condition for the lifetime of the development.

Reason: In the interests of the visual appearance of the area including the Belgravia Conservation Area further to Policies DE1, and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

3. Storage of rental equipment when it is not in use shall be limited to inside the cabin hereby approved. No rental equipment shall be stored on the open site or on the footpath or adjacent land. Waste and refuse shall be stored inside the cabins and not on open areas.

Reason: In the interests of the visual amenity of the site and pedestrian convenience further to Policies DE1, DE3 and TA2 of the Local Plan.

4. The cabin shall be used in association with the High and Low Ropes structures and not be used for other uses within Class F as defined by the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason: in the interests of the amenity of the site and its vicinity within the Belgravia Conservation Area and Local Green Space further to Policies DE1, SS10, and DE3 of the Local Plan and TE2 of the Torquay Neighbourhood Plan.

5. The site shall only be operated for the use hereby permitted between the hours of 9am to 7pm in summer (April to September inclusive) and 10am to 4pm in winter (October to March inclusive).

Reason: In the interests of the amenities of Abbey Park and neighbouring occupiers further to Policy DE3 of the Torbay Local Plan.

6. The ground level seating area shown on Plan No 003.002E is to be made available and provided with seating for spectators prior to first operation of the facility hereby permitted and retained thereafter.

Reason: In the interests of amenity and access of all sectors of the community further to Policy DE1 of the Torbay Local Plan.

7. The development hereby approved shall be implemented in accordance with the drainage and flood mitigation measures identified in the submitted Flood Risk Assessment (dated 26.05.2021).

Reason: In the interests of public safety and preservation of water quality in the event of flooding further to Policies ER1 and ER2 of the Local Plan.

8. The development hereby permitted shall not be brought into use before the following have been installed and made available for use by customers of the climbing facility:

- a) the pedestrian access from the adjacent car park formed by removing two parking bays and shown on the Site Layout Plan 003.002E,
 - b) the 1.5m wide footpath along the north edge of the site has been provided.
- These provisions shall be retained for the lifetime of the development.

Reason: In the interests of pedestrian and cycle access to the site further to Policy TA2 of the Torbay Local Plan.

9. Cycle parking details shall be submitted to and agreed in writing by LPA before first use of the development hereby approved. The cycle parking shall be implemented in accordance with the approved details prior to the first use of the climbing facility and retained as such for the lifetime of the development

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

10. Prior to any above ground development on the site a scheme for external lighting of the development shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: In the interests of the amenities of Abbey Park and neighbouring occupiers further to Policies DE1 and DE3 of the Torbay Local Plan and Policies TH8 and TE2 of the Adopted Torquay Neighbourhood Plan.

Relevant Policies

Torbay Local Plan:

TO1 Tourism, events and culture

SC1 Healthy Bay

SC2 Sport, leisure and recreation

DE1 Design

SS10 Conservation and the historic environment

HE1 Listed buildings

DE3 Development amenity

TA1 Transport and accessibility

TA2 Development access

SS8 Natural environment

C5 Urban Landscape Protection Areas

NC1 Biodiversity and geodiversity

ER1 Flood risk

SS14 Low carbon development and adaptation to climate change

ES1 Energy

Torquay Neighbourhood Plan

TH8 – Established Architecture

TE2 - Local Green Spaces

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	10.01.2022
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 Divisional Director - Planning, Housing & Climate Emergency
Reason for Referral to Planning Committee	Application made by the TDA
Planning Case Officer	Jim Blackwell

Location Plan



Update

On 13 December 2021 Members resolved to defer a decision until the next available Committee meeting in order to resolve the objection from the Environment Agency. There were several potential outcomes discussed:

- The removal of the objection without the need to amend the application or Flood Risk Assessment.
- The potential need to update the Flood Risk Assessment and re-consultation with the Environment Agency.
- Redesign of the layout, specifically by removing the kerb line around the coach station to resolve the issue.

At the time of publication of this agenda, which due to the Festive break is earlier than usual, comments from the Environment Agency are still awaited. If we still do not have the Environment Agency comments by the time of the January Committee this item will be deferred.

Recommendation

Approval.

Statutory Determination Period

27th September. Extension of time agreed until 10th January 2022.

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 from Claire Cushion of 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.

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 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 paragraph 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 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 now considered acceptable and overcomes 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 that they have no objection to the amended proposals. A verbal update will be provided to the Committee.

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 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

1. 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.

2. 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.

3. 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.

4. 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.

5. 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.

6. 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.

7. 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.

8. 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.

9. 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.

10. 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

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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.

17. 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.

18. 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.

19. 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.

20. Coach parking bays:

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

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

Informative(s)

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

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

3. Responsibilities of the applicant / developer:

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

Relevant Policies

Local Plan

DE1 – Design.

DE3 – Development Amenity.

ES1 - Energy

TA2 – Development Access.

TA3 – Parking Requirements.

ER1 – Flood Risk.

ER2 – Water Management.

NC1 – Biodiversity and Geodiversity.

SS3 – Presumption in favour of Sustainable Development.

SS4 – The Economy and Employment.

SS10 – Conservation and the Historic Environment.

SS11 – Sustainable Communities.

SS14 - Low carbon development and adaptation to climate change

C4 – Trees, hedgerows and natural landscape features.

Torquay Neighbourhood Plan

TH8 – Established Architecture.

TH9 – Parking Facilities.

THW5 – Access to sustainable transport.

TE5 – Protected species habitats and biodiversity.

TH10 – Protection of the Historic Built Environment.

TS1 – Sustainable Development.

TS4 – Support for Brownfield and Greenfield development.

TORBAY COUNCIL

Application Site Address	Pavilion, Vaughan Road, Torquay
Proposal	Repair works and alterations to include exposure of structural steel frame, concrete terraces with embedded steel structure, faience facade and further investigations into damage caused by water penetration
Application Number	<u>P/2021/1167</u>
Applicant	Marina Developments Ltd
Agent	Listed Building Surveys
Date Application Valid	19.11.2021
Decision Due date	14.01.2022
Extension of Time Date	
Recommendation	That Listed Building Consent 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 Divisional Director of Planning, Housing & Climate Emergency
Reason for Referral to Planning Committee	Building leased by Torbay Council to Marina Developments Ltd.
Planning Case Officer	Jim Blackwell

Location Plan



Site Details

The site lies on the west side of the Torquay Inner Harbour and is separated by a low-level multi-storey car-park, café and marina offices. It is at the east end of Princess Gardens. The south side of the site faces the Princess Parade, the Outer Harbour area and marina. The northern boundary of the site is contained by Vaughan Road and Torbay Road as it curves around Cary Green to join The Strand.

Part of its site is on land reclaimed from the sea, and it was built on a concrete raft on which a steel framework was erected. In 1911 the Pavilion, by Garratt, was a modification of the 1897 designs of Edward Richards. The structure is formed of a steel frame with brick infill, externally clad with Doulton's patent carrera-ware (a form of faience) glazed cream and green. The barrel-shaped roof, four corner domes, all copper-covered, the latter on cast-iron columns, and some exceptionally fine Art Nouveau ironwork and coloured glass all make this a significant seaside building of the period. Its central copper-covered dome is topped with a life-size figure of Britannia and two smaller domes on each side bear figures of Mercury. Finely sculpted Art Nouveau-style cast iron edges the steps to the promenade deck and the octagonal bandstands or summer houses.

The Pavilion opened in 1912 and apart from the foyer and auditorium, it had lounges and a cafe, all of which were panelled with oak. It was proposed to demolish the building in 1973, but was listed in the same year. It closed in 1976, when it was leased to Rank Organisation and the interior was destroyed in the most part through adaptations for various types of amusements, first as a skating rink and in the 1980s as a shopping arcade. Since then, several applications have been determined, from small scale repairs to large scale developments of the site and adjoining car park.

The Pavilion is a grade II Listed Building and lies within the Torquay Harbour Conservation Area. It forms part of the Historic Gardens: Princes and Royal Terrace Gardens. It is also within Flood Zone 3.

Description of Development

The submitted Building Condition Report shows evidence of water ingress, saturation, cracks, open joints and significant corrosion. Internally there is damage to fibrous plasterwork, removal of fabric and significant corrosion. If left unresolved and untreated it risks loss of the asset.

Repair works and alterations therefore include the exposure of structural steel frame, concrete terraces with embedded steel structure, faience facade and further investigations into damage caused by water penetration.

The proposed works also include various elements of repair. The whole building requires a detailed joint-by-joint decision as work proceeds to make good, remove lime putty, silicone mastic, fill cracks and gaps and complete comprehensive repointing where needed. On completion of these works, the building will be washed to give it a cleaner appearance.

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 listed building consent, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. With regard to Conservation areas the Act requires that in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Relevant Planning History

Torquay Pavilion and Marina Car Park and Office and Adjoining Land - P/2015/0962 and P/2015/0961: Refurbishment of building including repairs to corroded structure and works to prevent water penetration. Internal and external works to listed Pavilion to enable use as hotel foyer, including function rooms, bars, restaurant and spa. Construction of linked access from first floor level to proposed waterfront hotel (proposal revised 5 July 2016). Refused.

P/2014/0283: Refurbishment of building including repairs to corroded structure and works to prevent water penetration. Internal and external works to listed Pavilion to enable use as hotel foyer including function rooms, bars, restaurant and spa. Construction of linked access from first floor level to proposed waterfront hotel.

P/2014/0282: Change of use and restoration of the Pavilion to form hotel reception and spa including restaurant, bars and function rooms. Construction of 4/5 storey 60 bed hotel and 14 storey block of residential apartments, with ground floor restaurant and retail uses adjacent to the harbour. Link between the Pavilion and new hotel. Construction of new harbour walkway, provision of 280 car parking spaces including 65 spaces on Cary Green. Construction of Marina Office, berth holder facilities and landscaping (revised scheme as amended by plans received 16 October 2015)

P/2013/1203: Remedial repairs to flat roof forming the external terrace (marina facing) to prevent water ingress.

P/2003/1915: Removal of Existing Promenade Tiles to First Floor Terrace, Replacement with New Slabs to Match Existing. Approved.

P/1995/0658: Alterations to Front Entrance. Refused.

P/1995/0473 and P/1995/0427: Erection of Ticket Kiosk. Refused.

Summary of Representations

Torbay Heritage Trust have provided two consultation responses. The first welcome the works, but raise concerns about the length of time taken to undertake the repair works and the lack of understanding of the future use of the building. The second suggests the listing status be elevated to grade II*.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No comments received.

County Archaeologist and Historic Environment Manager:

No comments received.

Devon County Council Ecologist:

No objection subject to conditions requiring control of lighting, submission of a CEMP and no work taking place in the bird nesting season.

Theatres Trust:

Support the application subject to conditions requiring internal photographic recording of the building.

Torbay Council Community Safety Team:

No objections.

Historic England:

Historic England have provided a formal response saying they do not wish to make a comment. However, verbal support has been provided and Officers and Historic England are satisfied with the level of detail provided, methodology and outcomes subject to condition.

Planning Officer Assessment

Key Issues/Material Considerations:

1. Ecology and Biodiversity
2. Impact on Heritage Assets

1. 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.

A Preliminary Bat Roost Assessment was undertaken in November 2021. No evidence of bats was found internally or externally and no potential access/egress points for bats were noted. Therefore, the building was considered to have 'Negligible' bat roost potential in line with best practice guidance. It was therefore considered unlikely that the Pavilion would be used by roosting bats due to the absence of evidence of roosting activity and the limited suitable features available.

All birds, their nests and eggs are protected under the Wildlife and Countryside Act 1981 (as amended). The Ecology report recommended that the scaffolding should be undertaken outside of the main bird-breeding season (i.e., between October and February) or subject to a pre-clearance check by a qualified ecologist.

The County Ecologist had no objection subject to conditions requiring control of any potential lighting, submission of a Construction and Environmental Management Plan to be submitted prior to works taking place and no work taking place in the bird nesting season. Lighting will be required to facilitate the repair works during the winter months. This will need to be regularly moved and adjusted to ensure a safe working site. A condition has been included to ensure no permanent lighting fixtures on the building.

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).

2. Impact on Heritage Assets

NPPF (2021) provides guidance as to when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 200). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202).

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

Policy TH10 of the Torquay Neighbourhood Plan support alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

The application is supported by suite of investigative documents including a Building Condition report (July 2021) and Opening Up Report (July 2021), a Structural Inspection (June 2021), Asbestos Survey (May 2021) and up to date Heritage Statement (July 2021). The rigorous Heritage Statement from 2012 has also been included and is still relevant today. Additionally, extensive 3D modelling of the internal and external fabric has been carried out. Although not submitted as part of this application it is being used collaboratively as part of the ongoing project.

The Building Condition Report shows several instances of water ingress and saturation, cracks and open joints and evidence of significant corrosion. Internally there is damage to fibrous plasterwork, removal of fabric and significant corrosion. If left unresolved and untreated this risks loss of the asset. The Pavilion is exposed to prevailing weather conditions from predominantly a south to north west direction. This links directly to the most severe of the defects that can be evidenced. Issues can also be seen on the east and north elevations, but they are considered less severe.

Officers are mindful that this is the first in a sequence of positive actions involving the building. Although it's future use is yet to be defined and given its current deteriorating condition, this is being seen as an opportunity identify defects and to 'future-proof' the building as much as possible. Given the potential length of time these works could take and the invasive nature a condition has been suggested to provide further details.

A first phase of exploratory work has already taken place. These were required to make reasoned judgement on the overall condition of the building, help formulate a strategy for the next steps to be taken and to be clear about what the priority actions are the severity of the problems.

This application for listed building consent is to proceed with the second phase of the survey prior to a repair strategy being designed. The survey carried out so far has been non-invasive, except for the previously agreed internal works. Extensive reports and photographs have been provided following that work. There is full justification to continue the survey to the next phase and to proceed with a more comprehensive opening-up works. The repairs to the building and to the exposed parts will be included within the repair project and will need to be done to the highest levels of conservation expertise. There will be subsequent applications for listed building consent once the opening-up phase is complete and as the project moves forward to the repair phase.

The whole building requires a detailed joint-by-joint decision as work proceeds to make good, remove lime putty and silicone mastic, fill cracks and gaps and complete comprehensive repointing. On completion of these works, the building will be gently washed to give it a cleaner appearance. Once done, the building should have a unified appearance as well as being better protected against future moisture ingress.

Historic England have provided a formal response saying they do not wish to make a comment. Verbal support has been provided and Officers and Historic England are satisfied with the level of detail provided, methodology and outcomes subject to condition.

The Theatres Trust support the proposal and have suggested the building is fully recorded. As stated previously in this report, the building has been thoroughly examined, recorded and a modelled using 3D technology. This process of information collection will continue as the works evolve.

Torbay Heritage Trust have also provided two consultation responses. The first welcome the application, but raise concerns about the length of time taken to undertake the repair works and the lack of understanding of the future use of the building. The second suggests the listing status be elevated to grade II*. Commitment is being shown towards the repair and future use of the building. The heritage status does not appear to need elevating and this in itself would not alter the determination of the application.

The submitted Heritage Statement (July 2021) demonstrates that the investigation and subsequent repair of the building will deliver a positive level of enhancement to the character, appearance and significance of the Torquay Harbour Conservation Area and the Historic Gardens. These enhancements represent a wholly heritage-based form of public benefit.

As a defined heritage asset, grade II listed, within the Harbour Conservation Area and Historic Gardens, and key landmark for Torquay, Officers are supportive of these carefully considered works which would enable full long term restoration and facilitate opportunities for the Pavilion to be brought back to sustainable active use. The proposal is therefore considered to be in accordance with Policies SS10 and HE1 of the Local Plan, Policy TH10 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

This conclusion has been reached in relation to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. Having regard to the above assessment the proposed works to the listed building are considered to represent sustainable development.

Local Finance Considerations

Community Infrastructure Levy

The residential aspect of the site is situated in Charging Zone 1 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £30/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:

The site is in an area sensitive to flooding and is a designated heritage asset. Officers have therefore fully considered the sensitivity of the development. Due to the size, scale and nature 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 development is considered to result in positive enhancement of the listed building with the added public benefit through taking the first steps towards the positive, sustainable re-use of this key heritage asset.

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

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

Conclusions and Reasons for Decision

The proposal is acceptable in principle as it would not result in unacceptable harm to the Listed Buildings, the character of the area or the setting of the Conservation Area. 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 considered to be in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval - subject to:

1. The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing & Climate Emergency;
2. 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 & Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

1. Lighting:

No external lighting shall be permanently installed on the application site without the written permission of the Local Planning Authority.

Reason: In order to protect ecology in accordance with Policies DE1, DE3, NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF

2. Construction and Environmental Management Plan:

The works hereby approved shall take place in strict accordance with a Construction Environmental Management Plan (including measures of construction controls on dust and reducing contaminated run-off) which shall have been submitted to and approved in writing by the Local Planning Authority prior to commencement of the works hereby approved. It will include details of environmental protection throughout the construction phase and be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF. This needs to be pre-commencement condition to ensure the impacts of development are controlled from the outset.

3. No works during the bird nesting season:

No works including building demolition or vegetation clearance and preparatory operations (e.g. installation of scaffolding) shall take place during the bird nesting season (01 March to 30 September, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

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

4. Works of reinstatement:

Prior to commencement of development a detailed specification of works of reinstatement of the building following the investigative works, including a timetable for the works, shall have been submitted to and approved in writing by the Local Planning Authority. All the works of reinstatement shall take place in accordance with the approved specification and in accordance with the approved timetable of works.

Reason: To ensure the development takes place in a manner that will sustain and enhance this heritage asset in accordance with Policy SS10 of the Torbay Local Plan.

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

NC1 – Biodiversity and Geodiversity

HE1 – Listed Buildings

SS3 – Presumption in favour of Sustainable Development

SS10 – Conservation and the Historic Environment

SS14 - Low carbon development and adaptation to climate change

Torquay Neighbourhood Plan

TH8 – Established Architecture

TE5 – Protected species Habitats and Biodiversity

TH10 – Protection of the Historic Built Environment

TS1 – Sustainable Development

TORBAY COUNCIL

Application Site Address	50 Victoria Street, Paignton, TQ4 5EQ
Proposal	Installation of free standing advertising unit (FSU), containing back to back digital displays.
Application Number	P/2021/0410
Applicant	Clear Channel
Agent	n/a
Date Application Valid	22/05/20
Decision Due date	23/12/21
Extension of Time Date	N/a
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing & Climate Emergency.
Reason for Referral to Planning Committee	The site is owned by the Council and an objection has been received.
Planning Case Officer	Sean Davies

Location Plan



Site Details

The site comprises an area of pavement outside of no. 50 Victoria Street, Paignton TQ4 5EQ. The site forms part of the built-up area. It is within the Paignton Town Centre Area and the Old Paignton Conservation Area. The site is outside a Primary Shopping Frontage. Victoria Street is a pedestrianised shopping street.

Description of Development

Installation of free-standing advertising unit (FSU), containing back to back digital displays.

Pre-Application Enquiry

The Local Planning Authority and Torbay Highways have provided informal positive feedback to the applicant at pre-application stage in relation to the current proposal.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

None.

Summary of Representations

One objection has been received from a member of the public:

- “1. It would be out of proportion with other street signs and with pedestrians due to its large size, 9ft high by 4ft wide.*
- 2. It would block pedestrians' views looking up and down the street. An inviting vision in both directions, up and down the street, is so important for the movement of people and the success of commercial enterprises.*
- 3. It is detrimental to the view of Grade 2 listed Picture House cinema and the Paignton transport hub area, both visitor land marks.*

This advertising unit, which will give the council income, should be placed at other busy pedestrian areas where there may already be a blank wall and existing pedestrians views will not be obstructed. Good sites would be at the exits from the council car parks or at the transport hub, such as at the bus station or the railway station”.

Police: No objection

Torbay Highways: No objection.

Torbay Community Safety: No objection.

Paignton Neighbourhood Forum:

An objection has been received raising concerns as summarised below:

The proposal is contrary to Paignton Neighbourhood Plan Policy PNP1(c) as it would be out of keeping with its surroundings and would not respect an existing townscape vista. Also Policy PNP12(h) and the Paignton Town centre Masterplan as it would not de-clutter the town centre and make it easier to move around and would actually add to clutter and make it harder for pedestrians to move around.

The proposal is contrary to Torbay Local Plan Policy SDP1 Paignton as it will not improve the built environment or recapture the historic character of the old town, but would rather detract from the historic character of Victoria Street. The proposal is also contrary to Policy DE6 Advertisements as it would harm visual amenity and public safety, by creating an opportunity for miscreants to hide behind the mand carry out muggings and assaults.

The proposals fail a number of the ten criteria for good design set out in the National design Guide, namely: Context, Identity, Public Spaces, resources and Lifespan as well as paragraph 130 of the National Planning Policy Framework as the proposals represent poor design.

Concerns have also been raised that details of a contract with the Council referred to in information submitted with the application have not been provided and that certain arguments advanced by the applicant in favour of the proposals are not relevant.

(Note – officers understand that the Council has a contract with the applicant for the delivery of a number of FSUs across Torbay. The contract, and the details of the contract, are not planning issues that can be considered in determining the application. Officers have nevertheless referred Paignton Neighbourhood Forum to officials within the Council dealing with the contract so that they can see details publicly available).

A further objection was received from the Paignton Neighbourhood Forum in September that mock-up images supplied with the application were inaccurate and misleading. Officers raised this with the applicant and as a result new mock-ups were supplied. Officers also identified that the proposed layout plan submitted with the application was inaccurate. The applicant has now provided a revised accurate layout drawing which shows the proposed FSU slightly further away from the bike racks it would be sited near to. As the position of the proposed FSU has moved this necessarily means that the most recent mock-up images do not fully reflect the current proposed siting of the FSU. However, as a FSU unit further up Victoria Street has now been installed (see below), providing a nearby example of what the proposed FSU would look like, officers consider that the mock-ups provided are sufficient.

For the avoidance of doubt, officers do not consider that the proposed change in the location of the FSU is material or triggers the need for re-consultation).

Key Issues/Material Considerations

1. Principle of Development
2. Visual and aural amenity
3. Public safety

1. Principle of Development

The proposal seeks permission for Installation of free-standing advertising unit (FSU), containing back to back digital displays. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Visual and Aural Amenity

Policy DE6 (Advertising) of the Local Plan states that advertisements will not be permitted where they would harm visual or aural amenity.

(i) Visual amenity

An objection has been made by the Paignton Neighbourhood Forum and a member of the public, variously, that the proposals would be out of character with the surrounding area (PNP1(c)(ii)), would detract from an existing townscape vista looking up Victoria Street from the station (PNP1(c)(iii)) and would add to clutter in the Town Centre making it harder to get around contrary to Policy PNP12(h) and the Paignton Town Centre Masterplan. Also that the proposal would not improve the built environment or recapture the historic character of the old town (SDP1) and would harm the visual amenity of Victoria Street by providing a stark and unpleasant contrast to the setting of the Conservation Area, and would be detrimental to the view of the Grade II listed Picture House cinema and Paignton transport hub. Also, that the proposed FSU fails to meet certain characteristics of the National Design Guide (Context, Identity, Public Spaces, resources, Lifespan) and represents poor design within the meaning of paragraph 130 of the National Planning Policy Framework.

In forming a view about whether the proposals would harm visual or aural amenity officers have considered these points as well as Policy SS10 of the Torbay Local Plan (Conservation and the historic environment) and Policy DE1 (Design).

The proposal is for advertisement consent for a double-sided digital FSU. Information submitted with the application shows that it would be 2.64m high (the proposals initially submitted were for a slightly taller unit standing at 2.74m high), 1.34m wide, 30.5cm deep, and that each digital panel would be approximately 1.5sqm in area. The FSU housing would be black powder coated stainless steel. Displayed images would be static and would change no more frequently than every 10 seconds. The FSU would be operational from 05:00am to 02:00am and switched off in between. The digital displays would be backlit to a maximum brightness in darkness of 280 cd/sqm.

The applicant was granted planning permission for a similar (the FSU was 2.61m high but otherwise identical to the current proposal) double sided digital display FSU outside no. 26 Victoria Street (WH Smiths) under reference P/2020/0184 last year. No objections were received in relation to these proposals and so the application was determined using delegated powers. This unit has now been installed and provides an example of what the proposed unit subject to the current application would look like.

The applicant withdrew a number of other applications for FSUs around Torbay in 2020 in response to officer concerns. Officers have discussed the current proposal with the applicant

during pre-application discussions. The application under consideration in this report is one of six that the applicant has submitted in response to those discussions (the other five sites are in Torquay – four of these along Union Street and Fleet Street have now also been installed). It should be noted that the applicant has withdrawn application P/2021/0538, for a FSU outside no. 45 Victoria Street in response to concerns raised by officers that this would be too close to the FSU proposed on the opposite side of the road outside no. 50 (i.e the current application) and cumulatively would be visually intrusive (the site at no. 45 did not form part of pre-application discussions).

Conservation, the historic environment and listed buildings

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Policy HE1 states that development proposals should have regard to the desirability of preserving the setting of any listed building.

The site is within the Old Paignton Conservation Area. All nearby buildings are identified as Key Buildings in the conservation area appraisal. The nearest listed building is the Grade II* Cinema building on the other side of the level crossing.

Officers do not consider that the proposals would detract from the setting of the Cinema listed building. Officers also consider that the proposals would amount to sympathetic development within the conservation area, given its commercial character at the location in question, and would make a small contribution to conserving and enhancing the conservation area by adding to a sense of vitality along what is a key shopping street.

The proposal is therefore considered to be in accordance with Policies SS10 and HE1.

Design

Paragraph 130 of the National Planning Policy Framework states that “*Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions*”. Paragraph 132 states that “*The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts*”. The National Design Guide sets out 10 characteristics of well designed places (Context, Identity, Built Form, Movement, Nature, Public Spaces, uses, Homes and Buildings, Resources and Lifespan. Policy SDP1 of the Local Plan states that “*Paignton will be rejuvenated through high quality mixed use development of key town centre ... sites. Improvement of the built environment will recapture the historic character of the old town*”. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy PNP1(c) of the Paignton Neighbourhood Plan states that “*development proposals should where possible and appropriate to the scale and size of the proposal: be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials*” PNP(c)(ii) and “*respecting important landscape or townscape vistas*” (PNP1(c)(iii)). Policy PNP12 states that “*proposals supported where they will*” ... “*de-clutter the town centre to make it easier to move around*”. The Paignton Masterplan calls for the creation of a new Palace Square at the junction of Torquay Road and Palace Avenue and the de-cluttering of this area through removal of street furniture. The Masterplan sets out an aspiration to “*Support more use of the street*

surface for café seating, open air markets and themed events, festivals and similar attractions, whilst ensuring no loss of the existing street trees and seating capacity". Along the already pedestrianised part of Victoria Street.

Officers consider that the proposed FSU represents good design and would be appropriately sited close to an existing busy junction with an urban character. Officers have considered the characteristics of well designed places highlighted by the application (Context, Identity, Public Spaces, resources, Lifespan) but do not agree that the proposal is contrary to these. Officers consider that the proposals are likely to enhance the general street scene (Context), would be attractive and distinctive (Identity), would be safe, social and inclusive (Public Spaces) and would be efficient and resilient and made to last (Resources and Lifespan). It should be noted in this respect that a standard advertising condition could be used to ensure that the proposed FSU is maintained in a condition that does not impair the visual amenity of the site.

Officers consider that the proposed FSU would not be out of character with the existing street scene given the presence of existing street trees, benches, bollards, bins, bike racks and street lights in the vicinity.

Officers do not consider that the proposed FSU would make it more difficult to get around Victoria Street to the extent that the application should be refused. Torbay Highways remit includes ensuring that development proposals do not obstruct the pavement. Highways have been consulted on the application and raised no objection. Officers do not consider that the wording of Policy PNP12 can be read as suggesting that proposals for new street furniture along Victoria Street should be refused. Officers note the aspirations set out in the Paignton Masterplan for further use of the street for café seating and markets etc. and again do not feel that the proposed FSU would conflict or be out of character with such proposed uses. As noted above, the focus for decluttering Victoria Street in the Masterplan is at the junction of Torquay Road and Palace Avenue to create a new Palace Square.

Officers also do not consider that the proposed FSU would detract from the existing view up Victoria Street from the station given its modest width of 1.34m, or towards the Paignton transport hub or Picture House cinema.

Officers recognise that the proposals will not result in a "recapture of the historic character of the old town" but, equally, Policy SDP1 is a Strategic Policy setting out a broad aspiration for regenerating Paignton and officers do not consider that the wording of this policy precludes the proposal under consideration (i.e. the policy does not say that any proposals that do not lead to contribute to the recapture of the historic character of the old town should be refused).

The proposal is therefore considered to be in accordance with the National Planning Policy Framework and Policies SDP1, DE1, PNP1(c), PNP12 and the Paignton Masterplan.

Neighbour amenity

Policy DE3 of the Local Plan sets out that development should not unduly impact on the amenity of neighbouring uses and that this will be assessed in relation to the impact of criteria that includes visual intrusion and light pollution.

Officers have considered the proposed operation of the FSU i.e. static images changing lit to a maximum of 280 cd/sqm in darkness between 05:00am to 02:00am. Officers consider that

this would be unlikely to detract from the visual amenity of the area, either in terms of the street scene generally, or when viewed by neighbours i.e. local businesses and residents of any flats that may exist above these units.

Torbay Community Safety have been consulted on the proposals and have replied with no objections.

The proposal is therefore considered to be in accordance with Policy DE3.

(ii) Aural amenity

Policy DE3 of the Local Plan sets out that development should not unduly impact on the amenity of neighbouring uses and that this will be assessed in relation to the impact of criteria that includes the impact of noise.

A planning condition can be used to ensure the FSU is silent.

The proposal is therefore considered to be in accordance with Policy DE3.

Summary

The proposals are considered acceptable in relation to visual and aural amenity.

3. Public Safety

An objection has been made by Paignton Neighbourhood Forum that the proposed FSU would create a space for miscreants to hide behind and could lead to muggings or assaults.

Officers consider that the risk of this happening is very low. The Police have been consulted and have replied with no objections.

Torbay Highways were involved in the pre-application discussions described earlier in this report in respect of the site under consideration and also the five additional sites in Torquay and have not raised this issue as being a concern.

The proposed FSU has been positioned so as not to obstruct Victoria Street to pedestrians or reduce visibility for drivers along Hyde Road.

Torbay Highways have been consulted on the proposals and have replied with no objections. It should be noted that while the specification included with the proposals states that image change will be via "smooth fade" the applicant has since clarified that *"I am advised by our Digital Support team that a software change was made to our displays just prior to the application's submission, which now sees displays change in a more instantaneous way ..."*. The manner of screen change can be seen on a video clip of an FSU in operation that the applicant has supplied and which can be viewed on the Torbay website, or simply by observing the operation of the other approved FSU units installed further up Victoria Street and in Torquay Town Centre. Torbay Highways have confirmed that they have no objection to this change:

"Providing the images are static and no intermittent light sources, flashing lights, moving parts or features are shown, Highways would raise no objection".

The proposals are therefore considered to be acceptable in terms of public safety.

Conclusion

As the proposals have been assessed by officers as being acceptable in terms of visual and aural amenity and public safety the proposals are considered to be in accordance with policy DE6.

Local Finance Considerations

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA:

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 issues raised in the objections received and concludes that these are not of sufficient weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

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 and would not result in unacceptable harm to the Visual or aural amenity or public safety. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

Officer Recommendation

That planning permission is granted, subject to the conditions detailed below and subject also to no new material planning considerations being raised within the remaining consultation period. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning. Housing and Climate Emergency.

Conditions

1. No advertisement is to be displayed without the permission of the owner of the site or any other person with an interest in the site entitled to grant permission.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

2. No advertisement shall be sited or displayed so as to—
- (a) endanger persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - (b) obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air; or
 - (c) hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

3. Any advertisement displayed, and any site used for the display of advertisements, shall be maintained in a condition that does not impair the visual amenity of the site.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

5. Where an advertisement is required under these Regulations to be removed, the site shall be left in a condition that does not endanger the public or impair visual amenity.

Reason: To comply with the provisions of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007.

6. The intensity of the illumination of the sign shall not exceed 280 candela/m².

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

7. The sign shall only display static images.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

8. The sequential advertisements shall not change more than once every 10 seconds.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

9. The sign shall only be operational between 05:00am and 02:00am (and shall be switched off between 02:00am and 05:00am).

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3, D6 and SS10 of the Adopted Torbay Local 2012-2030.

10. The sign shall be silent.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

11. The housing of the Free Standing Digital Display Unit shall be black or dark grey or any other colour that has been agreed in writing with the Local Planning Authority.

Reason: To safeguard the amenities and character of the area in accordance with Policies DE3 and D6 of the Adopted Torbay Local 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan.

Development Plan Relevant Policies

SDP1 Paignton
SS10 Conservation and the historic environment
HE1 Listed buildings
DE1 Design
DE3 Development amenity
DE6 Advertisements
PNP1(c) Design Principles
PNP12 Getting Around

Application Site Address	Land Off Orchard Way, Edginswell Torquay
Proposal	Construction of retail unit (Class E(a)), including mezzanine floor and external display area, secure servicing compound, car parking, trolley bays, mobile catering unit (sui generis), landscaping and associated works.
Application Number	P/2021/1024
Applicant	Torbay Development Agency
Agent	KTA
Date Application Valid	16.10.2021
Decision Due Date	15.01.2022
Extension of Time Date	
Recommendation	<p>Approval: Subject to;</p> <p>The receipt of Highway Authority comments and the resolution of access arrangements and parking levels to serve the development to the satisfaction of Officers.</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Major Development.
Planning Case Officer	Scott Jones



Site Details

The site comprises of 0.8 hectares of unkempt grass/scrubland to the northwest of Orchard Way and to the north and west of the existing commercial buildings that form Edginswell Business Park. To the west of the site lies a hedge border to a public right of way that connects Edginswell Lane with Torquay Road, which sits between the site and Hamelin Way. To the north of the site lies a tree lined watercourse and a main rail line, beyond which land rises to Riviera Way. In terms of access Orchard Way presently terminates at the southwestern edge of the site.

In terms of topography the site slopes from south-west to north-east, comprising areas of grass, undergrowth and spoil from neighbouring developments. The level change across the site is approximately 8m. It is relevant to note that there is an extant planning permission for groundworks across the site and the adjacent land, which for the site consents a level change to a flat plot with some cut-and-fill, contained by a retaining wall to the south and a graded bank to the north.

Regarding further context the site sits within the Edginswell Future Growth Area, as designated within the Torbay Local Plan, and is within the adopted 'Torquay Gateway (Edginswell)' Masterplan area, which envisages commercial uses on the land. There are also a number of listed building within 100-150m to the south and east of the site, although none directly border the site. In terms of further heritage interests there is an entry recorded on the Historic Environment Record for a post-medieval 'catch meadow' within the site. Other notable matters include an adjacent watercourse to the north which is an identified flood risk area and the adjacent land around the watercourse and railway line is part of a broader linear identified Local Nature Reserve

and Urban Landscape Protection Area. The site is also within the identified Landscape Connectivity Zone associated with the Greater Horseshoe Bats (South Hams SAC).

In terms of some further context the site has an extant permission for a retail unit (restricted bulky goods) consented as part of a historic major 'hybrid' (detailed and outline) proposal approved and partly implemented on adjacent land to the east under planning reference P/2007/1030 (as amended).

Description of Development

The proposal is for the construction of a retail unit (Class E(a)), including mezzanine floor and external display area, secure servicing compound, car parking, trolley bays, mobile catering unit (sui generis), landscaping and associated works.

The development principally consists of a single rectangular building 55m long by 38m deep by 11m high. The building is flat roofed with a primary external finish of metal panels, with sections of dark blue and sections of grey. Additional materials include stone and areas of curtain wall glazing.

There are two access points proposed. The existing stub access off Orchard Way will serve a customer car park that offers 67 car parking spaces, which are inclusive of 4 disabled parking bays and 5 van parking spaces. The parking sits to the east of the building. A secondary access is proposed further west off an extended section of highway to serve a proposed compound area for the development that sits to the south of the building. The compound area sits below the adjacent extension of highway and is contained at the edge of the plot by a concrete retaining wall, both approved under planning permission P/2021/0123, which consented 'enabling' groundworks across the wider meadow. To the west of the building a proposed outdoor 'projects centre' is proposed. The compound and projects centre has a proposed boundary treatment of 4m high mesh security fencing set off 6m high posts.

The proposal includes landscape planting around the four borders of the site encompassing tree planting, hedge planting and the provision of a turfed devon bank around the customer entrance.

Pre-Application Enquiry

DE/2021/0004: Extension of retail park, including retail units and research/development building. Decision: Principle supported.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

Major 'Hybrid' Application: P/2007/1743: Mixed Use Development Comprising Business Use Class B1, Car Showroom, Retail Warehouse And Residential And Public House/Restaurant (Class A3/A4) With Associated Highway Works And Car Parking.(In Outline). Approved.

Planning Application: P/2009/0055: Amendments to planning permission (app number P/2007/1743/MOA) comprising a draught lobby to main entrance and additional fire door at ground floor level to office building O2. Approved.

Minor Material Amendment (Section73 Application): P/2016/0955: Variation of condition P1 of P/2007/1743 - to allow amendments to the appearance, footprint and internal layout of one car showroom and alterations to the layout of the parking and car display area. This permission relates solely to those elements granted consent and have extant detailed planning permission under reference P/2007/1743 (two car showrooms and one retail unit). Approved.

Planning Application: P/2021/0123: Enabling works for future development. Extension of Orchard Way with associated retaining walls and landscaping. Approved.

Summary of Representations

None.

Summary of Consultation Responses

Torquay Neighbourhood Forum

No comments.

Torbay Council's Ecology Advisor (Devon County Council)

European Sites

Following the flow chart within the South Hams SAC HRA Guidance document (October 2019) it is deemed that there would be no loss, damage or disturbance at a landscape scale to potential commuting routes for Greater Horseshoe Bats. Therefore, it is deemed that there will not be a Likely Significant Effect on the South Hams SAC a detailed HRA is not required.

Protected Habitats

Will not impact the adjacent wildlife corridor to the north around the watercourse and rail line.

Protected Species

Subject to conditions regarding lighting, repeat badger surveys, a Construction Environment Management Plan and Landscape Environment Management Plan, and conditions attached to the enabling consent P/2021/0123, there will be no impacts.

Habitat loss

The requirement for net gain will be dealt with under the enabling permission P/2021/0123. The landscape plan submitted with this application is deemed acceptable.

Highway Authority (Swisco/WSP)

Based upon the information initially submitted the Highway Authority are unable to provide a recommendation. The applicant will be required to submit the following further information:

- Identify the quantum of development included within the Folkstone and Christchurch Wickes stores survey, including the quantum of car parking at each store, as well as the dates that the surveys covered;
- Identify the maximum number of employees likely to be on-site at any one time;
- Identify the location of bin stores for the development proposals;
- Submit an updated swept path analysis to illustrate access / egress at the site by an articulated vehicle;
- Include the provision of electric vehicle charging points within the proposed development layout;
- Clarify if the development trip generation peak period assessment has been based upon a weekday or weekend and
- The applicant will be required to demonstrate why the guidance relating to the use of 30% of passby / diverted trips in TRICS 95/2 is valid within the context of the proposed development.

(Note: Further comment awaited in response to the recent receipt of additional detail).

Police Designing Out Crime Officer

No objections in principle. It is recommended that consideration is given to the principles and practices of Secured by Design Commercial 2015 as this would ensure a consistent level of security throughout and minimise opportunity for crime and disorder.

The vehicular entrances to the parking areas are likely to benefit from being gated or a barrier fitted for when the premisses are not in use as this will prevent unwanted vehicular activity and loitering.

It is recognised that movement to the side of the property will be controlled with gates and a proposed 900mm guard rail, our recommendation would be for a minimum of 1800mm height weldmesh fencing to the standard of LPS 1175 with matching gates. Recommend the compound fencing and outdoor project centre should be to the standard of LPS1175.

All external doors, including roller shutters/vehicle doors and easily accessible windows should be sourced as tested and certificated products meeting the security standards of PAS24 or LPS 1175 SR1/2(A1/B3).

Care should be taken to avoid design features that could create climbing aids, for example external downpipes as these can enable access to other parts of the building or up to the roof. They should be concealed or fitted flush.

It is recommended that a monitored CCTV and alarm system with appropriate and compatible lighting is factored in to form part of the overall security package. Cameras should cover all external doors and easily accessible windows, concealed areas to the side and rear and the main vehicular and pedestrian entrances as well as the compound.

Drainage Engineer (Torbay Development Agency)

providing the surface water drainage is constructed in accordance with the submitted site specific flood risk assessment, drainage strategy and drawing number 3467/FRA107 Revision P, I have no objections on drainage grounds to planning permission being granted for this development.

Green Infrastructure Manager (Swisco)

The submitted landscape scheme identifies a robust planting scheme however further details regarding planting arrangements for the larger specimen trees and smaller trees e.g. pit design, staking/underground guying, mulching, tying, and commitment to replacement in the event of plant loss is needed.

Further to the above the native hedge mix is identified as forming the meandering south west and western boundary. The percentages provided for the mix of the stock for planting are satisfactory however the number of trees to be planted is not adequate to ensure that a continuous hedgeline will be in place once completed. The same concerns are raised with the woodland mix that covers the north west and northern area - the plan indicates the whole area is to be planted but the numbers will not achieve the cover anticipated from the area shown on the plan.

The spacing of the larger specimen trees is likely to be too close to allow for the full growth potential of the trees. A wider spacing would allow for the trees to reach their full potential in terms of height and spread.

Strategic Planning and Transport Officer

As has been discussed with the proposals elsewhere on this wider site, and as has been shown on previously approved plans for the past applications and the masterplan, it is necessary to establish a connection for walking and cycling between the existing path to the west of the site and Orchard Way. This is to support active travel opportunities to and from Torquay Road (Kingskerswell) and Edginswell Lane (and south to the wider growth area). The original plans also enable the space to the north of the site, between the watercourse and the development area to be general amenity space. This is important for encourage active travel, whether recreational or for commuting purposes.

If the link shown on plans from the east of the site off Orchard Way (between this application site and the car showroom) is not able to be provided it would be imperative that a link is provided elsewhere. This is supported expressly by local plan policy TA1 (points 1-5) and TA2 (points 1,3,4 and additional detail) but also is in line with the quality of the development that the Council (through the TDA) is applying for and seeking to achieve through its plans and policies.

Torbay Council Community Safety Officer

No objections subject to the requirement for a condition regarding a construction management plan.

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

The site has been historically linked with the established business park, principally as the site was part of wider historic proposals through a major mixed-use scheme that was submitted and approved 14 years ago. This permission was implemented and partly built out and through this historic permission the land subject to this application benefits from an extant planning permission for a retail unit (bulky goods restriction) with a total floor area of circa 3000sqm (2400 floor area plus 600sqm mezzanine). This sits as a material consideration in terms of the principle of the current proposal and the effect of this in terms of the planning principle of the current proposal will be discussed below.

In terms of the Development Plan and formal designations the site is clearly identified for commercial uses. In the Local Plan the site is part of the Edginswell Future Growth Area (identified within Policy SS2) and is identified as an employment site within Policy SS5 (Employment space). There is also an adopted Masterplan relevant to the site and wider area (Edginswell) and this identifies the site as part of 'Edginswell Business Park'. The broad policy guidance is for high quality business uses but with some suggestion that a broader mix of uses may be suitable. In terms of the more recent Neighbourhood Plan the site is again identified as an employment site (TJ1.10) and there is reference to the adopted Masterplan as a material consideration for development coming forward.

In the context of the Development Plan there is consistency in terms of the land being identified for employment uses. The proposal does create employment as a commercial use however as a retail unit this particular use is somewhat discordant at the scale proposed with the broad policy position for the area. In terms of the Development Plan alone a position of support would be somewhat discordant with policy ambitions for high-quality business uses.

In addition to the above the provision of retail in an out of centre needs due consideration. Policies TC1 (Town centres), TC2 (Torbay retail hierarchy) and TC3 (Retail development) of the Torbay Local Plan provides the key policy guidance and in summary they offer that retail uses should follow a town centre first approach and that out-of-town retail should be resisted where it would harm the vitality and viability of town centres. Failure to pass sequential and impact tests would present a position where support would not be expected.

In terms of both areas of policy concern offered above there are wider considerations that require due weight, which are explored below.

The historic permission for a slightly larger retail warehouse on the site influences both areas of policy. In terms of the broader expectation for high quality business uses there is an extant permission for a similar form of development that could be delivered on the site. This is considered to provide substantial weight towards accepting the current proposal. In terms of the policy goal to divert retail uses to sequentially preference in-centre or edge of centre sites, and to resist development on undesignated sites that would present undue impact upon the trading of designated centres, it is relevant to both of these aspirations to consider the extant permission. In this case a slightly larger and very similar form of development could be delivered on the site and hence the refusal of planning permission would neither divert a retail use to a more preferable site or remove the impact of such a store on designated centres. In the context of a similar form of development being deliverable on the site there are material considerations that guide towards accepting the principle of the current proposal.

In-line with the guiding policies outlined above the development is considered contrary to the provisions of the development plan in terms of planning policy and principle, presenting discordance with Policies SS2, SS4, SS5 TC1, TC2 and TC3 of the Torbay Local Plan, Policies TS2 and TJ1 of the Torquay Neighbourhood Plan, and Torquay Gateway (Edginswell) Masterplan. Notwithstanding this the existence of an extant permission for a similar form and scale of development on the site is considered to carry significant weight in favour of the development. Having regard to this material consideration and with consideration of broader aspects of the development that weigh in its favour, principally some limited weight to the job creation during construction and moderate weight to the job creation aspect of the form of development, the development is, on-balance, considered acceptable in principle.

2. Design and Visual Impact

The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Para 126). It also counters that development that is not well designed should

be refused, especially where it fails to reflect local design policies and government guidance on design (Para 134).

In terms of the Development Plan Policy TH8 'Established architecture' is the key policy tool within the Torquay Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. In terms of further advice within the Development Plan Policy DE1 of the Torbay Local Plan outlines the importance of good design and is also a key policy tool in design terms.

The key design and visual impact consideration is how the development will sit in the setting of the business park and how it would be viewed from longer views on roads from the north and west.

Whilst the built form on the site will change this is expected as the site is identified for commercial uses.

In terms of considering the immediate context there are pleasantly detailed office and other commercial buildings adjacent, which are relatively modern in character, and which utilise render and cladding panels as the primary materials palette. These buildings also generally sit in quite refined landscaping which seeks to maximise the benefits of the smaller pockets of landscape and border treatments available in terms of how these positively influence the public realm.

The general scale and massing of the proposed building is considered acceptable in the context of the business park and with consideration of the extant permission for a similar scaled retail warehouse. In terms of the form and materials the elevational arrangement is considered suitably refined when taken in context with the expected landscape planting. The mixture of glazing and the provision of tree planting to the north and west of the building will, in combination, present a positive addition within the built environment. In terms of proposed materials the use of micro rib panelling is not supported and a more refined material should be sought to reinforce the relatively high design standard established within the business park. Pre-Application discussions suggested that the building would be finished in a smooth panelled system. Such systems generally present a more refined elevational treatment. The matter has been raised with the applicant and it has been confirmed that they are content to amend the choice of cladding. Due to the timeline it has been requested by the applicant that Officers/Members secure this amendment via a planning condition for the approval of a revised solution and officers agree that this is a reasonable proposition.

Away from the building there is a detailed landscaping proposal that provides a mix of native hedging around the southern half and woodland planting around the northern half. Intermixed there is tree planting throughout these areas and around the entrance there is a turfed devon bank detail that seeks to reflect the established boundary treatment form earlier phases. The landscapae proposal is generally considered robust and acceptable however there is a request for some minor refinement and further information from the Council's landscape advisor to ensure the full benefits of the scheme are realised. This refinement could be secured by a planning condition.

As a final matter for consideration in terms of structural development away from the building there is a 4m high security fence fixed on 6m high posts stretching from the compound entrance westwards around the southern edge of the site to enclose the compound and the outdoor project centre. There is a degree of concern on the scale and form of this enclosing element where it is fixed directly adjacent to the public realm. The concern has been raised with the applicant and the matter is being considered in terms of seeking a more positive solution that achieves the necessary security and offers a suitable border to the public realm of a gateway business park. Should the issue not be fully resolved the final detail could be secured by a planning condition.

Subject to resolution of the cladding material, minor refinement of the landscaping detail, and resolution of a security detail that adequately responds to the urban form, the proposal is considered acceptable in design terms as it is in broad accordance with the aspirations of Development Plan Policies TH8, DE1 and DE4, and advice contained within the NPPF, for the reasons stated above.

3. Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to ensure a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring occupiers and surrounding uses. The NPPF guides (Paragraph 130) that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

The proposed development, post-construction, will not impact the amenity of neighbouring occupiers, which principally sit to the south of the site off Edginswell Lane, as the properties are some distance away structures will not result in any form of loss of privacy, light, outlook etc. more immediate uses are commercial ones, including offices and a car show room, and would not be unduly impacted by the provision of a retail unit within the business park.

Notwithstanding the above conclusion the construction phase does have the potential to effect neighbours, principally through noise, dust and general disturbance during construction. Construction impacts can be adequately managed through the provision of a planning condition requiring submission of and approval of a management plan for the process to limit impacts of the construction phase. This is likely to include restrictive hours of construction and measures to limit effects of dirt, dust etc.

With a condition as highlighted the proposals are acceptable in terms of any impact upon the amenity of adjacent occupiers, in accordance with Policy DE3 of the Torbay Local Plan.

4. Highways and Movement

The NPPF guides that in assessing specific applications for development it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; 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 (Para 110).

The Development Plan, largely through Policies TA1, TA2 and TA3 of the Torbay Local Plan, outlines similar policies goals as the NPPF, but also guides on parking levels and sustainable transport facilities within new development.

General Context and Connectivity

In terms of the general context the development would sit in an established business park served by roads with footways and streetlighting. There are designated cycle network routes nearby, Torre train station to the east within walkable distance and there is a strategic identified ambition to deliver a train station at Edginswell within a few hundred yards of the site. Broadly the site is well-served by highway and movement infrastructure for various modes of travel.

It is noted that the historic permission for the wider business park, including the retail unit on the land in question, secured a pedestrian link along the eastern border of the car park area that then wrapped around the north of the building in the form of a 'lunch time woodland and river walk'. This also provided a link to the north-west onto the public right of way and to the west. The current proposal seems to override the ability to provide this link as the space between the car park and the balancing pond seems limited. There is broad support for improved permeability and connectivity that promotes sustainable (walking and cycling) modes of local travel and the delivery of a connection westwards appears valuable. The potential loss of the historic connection is a concern but it is appreciated that there would appear scope to deliver a different route to link the business park with the public right of way to the west. Such as along the extended Orchard Way and through future development proposals for land that is in the Council's control. On balance it is considered an acceptable layout where there appears potential to secure a connection westwards through future proposals.

Highway Network

In terms of traffic the application is supported by analysis that identifies a significant reduction in terms of peak flows when compared to the previously approved scheme.

The Highway Authority has raised that it is unclear as to whether the trip generation for the previously approved scheme has been based on a quantum of 3,837m² or for 2,400m² to enable a comparative analysis to be undertaken. Further information has been requested and recently received and update comments from the Highway Authority is currently pending.

As a broad assessment the business park is identified for additional development through the Future Growth Area allocation and as identified within the adopted masterplan for the area. This would suggest that network capacity would not be severely impacted by the level of development currently proposed and such a conclusion would indicate planning permission should not be refused on transport network related grounds.

Access

The development will be served by two access points. The existing spur off Orchard Way will serve the customer parking area and a newly formed access will serve deliveries to the proposed compound area approximately 25m west off the existing access.

The existing access is considered suitable and adequate to serve customer parking and there is no objection or concern on this access point raised by the Highway Authority.

The proposed compound access is supported by tracking information for articulated lorries. It has been highlighted that this detail shows a degree of overrun and the Highway Authority has raised a request for further information to demonstrate that the design is acceptable.

Subject to resolution of the above the two proposed access points are considered acceptable.

Parking and Sustainable Travel

The applicant has proposed a total of 67 car parking spaces which are inclusive of 4 disabled parking bays and 5 van parking spaces.

The Torbay Local Plan (Appendix F) provides central guidance on parking standards expected from forms of development and outlines that comparison goods stores of over 1000sqm of floorspace has a guideline provision of 1 space per every 20sqm of gross floorspace. The internal floor area of the development (ground floor plus lobby plus mezzanine) is 2393sqm, which equates to a policy expectation of 120 spaces. The provision is hence 53 spaces below the guideline provision for the type of store proposed. As a point of note the Highway Authority has suggested a policy expectation of 130 spaces. This presents a significant shortfall in the policy expectation for a comparison goods store (comparison goods include for example clothing, DIY, household goods, recreational goods).

The applicant has stated that the proposed user of the retail store, Wickes, typically caters for trade customers and hence the car parking requirement for the store has been reduced due to the different characteristics of the store when compared to other retail developments. The applicant has submitted car parking survey data for other Wickes stores to justify this approach. This has been assessed by the Highway Authority and further information on comparison data was requested. A response has been offered and this matter is currently being considered by the Highway Authority.

Should a reduced provision be considered appropriate for the specific type of business proposed then it would be appropriate to restrict the use and any future commercial user by an appropriate worded restrictive planning condition. It is envisaged that this would restrict the form of use to that being proposed and no other use. Any revised form of operation would thereafter require planning permission and due scrutiny of the traffic levels and parking demands could hence be scrutinised at that stage.

Members will be updated on any forthcoming comment on this issue from the Highway Authority.

In terms of the mix and character of parking spaces the Local Plan guides that up to 10% of the total allocation of spaces should be dedicated and appropriately designed for disabled users and that all new development should, where viable, include the provision of electric charging points. Policy guidance would indicate up to 6 disabled spaces and some form of electric charging within the car parks facilities. There are currently 4 disabled spaces proposed and no detail on electric charging facilities. As the guidance is up to 10% and in the absence of any raised concern on the slightly reduced level from highway colleagues the provision of disabled spaces is considered acceptable. The delivery of these spaces should be secured by condition. The absence of electric charging options is considered unacceptable and should be addressed by a positively worded planning condition to submit and agree an appropriate level and detail for such facilities on site prior to the first use.

The applicant has proposed to provide 12 cycle parking spaces within a shelter. It is noted that, as Wickes caters for providing quite bulky items, that it is unlikely that customers will cycle to the store. The Torbay Local Plan Parking Standards guides on the provision of one cycle parking space per two employees. The applicant has been asked to provide further information about the number of employees likely to be working at the site at any one time to enable an accurate determination on the sufficiency of the proposed cycle parking for both employee and visitor demand. Notwithstanding this employment density data contained within the Council's Planning Contributions and Affordable Housing SPD suggests retail warehouses offer an employment density of 1FTE every 90sqm. This would lead to an estimated employment level of 27 FTEs and a cycle provision expectation of 14 spaces. On balance the provision is considered adequate in the absence of any further information.

As matters stand highway conclusions are subject to the content of comments pending from the Highway Authority in response to the recent receipt of further 'clarifying' information.

All matters considered, subject to comments from the Highway Authority raising no substantial concerns in terms of highway capacity, the safety of the compound access, and the adequacy of the reduced parking provision below the policy guide within the Torbay Local Plan, the proposal would be considered in broad accordance with Policies TA2 and TA3 of the Torbay Local Plan, Policy THW6 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

5. Ecology and Trees

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy C4 seek the retention of trees and other natural features. Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and

local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 174).

The site is open grass and scrub, with a hedge border to the western flank bordering the public right of way. It is relevant to note that contextually the site benefits from planning permission to clear the site, and to cut-and fill the land levels to provide a plateau retained by a structural concrete wall to the south and a graded earth bank to the north. This permission for groundworks (planning permission P/2021/0123), is subject to planning conditions that address the loss of habitat from the site's clearance and biodiversity net gain aspirations. This recent permission presents a preliminary position and its implementation is necessary to provide the structural layout and land levels to deliver the development currently proposed. Subject to a planning condition to link the currently proposed development to the implementation of the approved groundworks application species protection measures and replacement habitat and biodiversity net gain aspirations will be secured. It is also recommended that any grant of planning permission is subject to planning conditions for repeat badger surveys, the submission of details for nesting bat and bird opportunities, and for agreement regarding detail of a Construction Environmental Management Plan and Landscape and Ecological Management Plan. These conditions will address potential implications of the construction of the proposed development and secure due protection of protected species and opportunities to enhance the natural environment.

In terms of other ecological considerations the Council's advisor has considered any likely impact upon Greater Horseshoe Bats associated with the South Hams SAC, as the site sites in the identified Landscape Connectivity Zone. Having followed the flow chart within the South Hams SAC HRA Guidance document (October 2019) it is deemed that there would be no loss, damage or disturbance at a landscape scale to potential commuting routes for Greater Horseshoe Bats. Therefore, it is deemed unlikely that there will be a Likely Significant Effect on the South Hams SAC a detailed HRA is not required. It is recommended that any grant of planning permission is subject to a planning condition for the submission and agreement of a detailed Lighting Strategy prior to the commencement of development, to minimise indirect impacts from lighting associated with the pre-construction, during construction and operational activities.

Regarding trees there are no constraints within the site. The Council's specialist advisor has considered the submitted landscape plan and it is deemed to provide a betterment in terms of it delivering several trees within the site. Overall the landscape scheme is considered robust and is supported. However, it has been raised that further detail is required regarding planting arrangements for the larger specimen trees and smaller trees, and possible bolstering of the meandering south west and western hedge boundary, as the planting numbers are not deemed adequate to ensure that a continuous hedgeline will be in place once completed. There are similar concerns raised with the woodland mix that covers the northwest and northern area where the numbers will not achieve the cover anticipated from the area shown on the plan. There is also a desire to secure improved spacing of the larger specimen trees to allow for the full growth potential of the trees. These matters are with the applicant to respond on however it is deemed suitable and proportionate for further detail and amendments to be secured through a planning condition to address the minor concerns raised.

Subject to conditions to address the matters highlighted, as detailed within the schedule of conditions within this report, the proposals are considered in accordance with the aspirations of Policies SS8, DE1, NC1 and C4 of The Local Plan, Policy The Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. The policy outlines a hierarchy for water-flow management within new development, and similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay.

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

The assessment proposes an attenuated discharge to the Aller Brook to the North of the site. As the site is within the Torbay Critical Drainage Area it identifies it is necessary to limit the surface water drainage leaving the site to the "greenfield" run off for the 1 in 10 year event. This is to ensure there is no increased risk of flooding to adjacent land for all storm events up to the 1 in 100 year with a 40% allowance for climatic change.

The Council's drainage advisor (TDA) has advised that the proposal had demonstrated that the surface water drainage has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change, and is suitable for approval on drainage grounds.

Considering the specialist advice the proposal is considered suitable for approval on drainage and flood risk grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay and the NPPF.

7. Low Carbon Development, Climate Change and Waste Reduction

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, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved.

The application is not supported by information relating to low-carbon aspirations or energy efficiency measures/goals. A request for such information was tabled pre-validation however the request was not taken-up. In the absence of any information a conclusion cannot be made on whether the development accords with Policies SS14 and ES1 of the Torbay Local Plan.

In the circumstance, where the issue is an inability to determine either way due to the lack of information, it is recommended that a planning condition is used to seek submission and approval of proposed measures to accord with the policy aspirations. This should be prior to the commencement of development above Finished Floor Level

The development is, subject to a planning condition to secure a positive response to the aspirations for low-carbon and energy efficient development, can be considered suitable for approval, in accordance with Policies SS14 and ES1 of the Torbay Local Plan.

8. Economic growth

The site has an employment land allocation as identified within the Torquay Neighbourhood Plan under Policy TJ1. The policy cites that new development should help contribute to the strategic needs for employment land for Torquay, that the provision of new employment space will be supported across Torquay (consistent with policies for managing development contained within the Torquay Neighbourhood Plan and the Torbay Local Plan), and that the loss of employment uses at allocated employment sites will be resisted and that support will be given to the retention and improvement of employment space on identified sites.

In terms of the Torbay Local Plan Policy SS4 cites that the Council will support proposals that deliver employment space and high value jobs, and Policy SS5 cites that improvement of existing (or new) employment space will be supported in terms of refurbishment or revitalisation of existing employment estates. Policy SS5 furthers that for major employment or mixed use schemes the Council will seek around 25% of space to be provided as 'B Class' uses.

The proposal seeks to deliver a specialist (bulky goods) retail unit within a site that is identified with wider mixed commercial expectations, and where there is an extant permission for a similar form of development.

The submission is not supported by an economic statement but detail within the Council's adopted Planning Contributions and Affordable Housing and SPD suggest that the proposal could deliver employment levels of around 27 FTE jobs based on a standard employment density formula.

For the avoidance of doubt officers consider the provision of retail in this location is only acceptable due to the material consideration of an extant permission for bulky goods retail on the site. This is because the policy would lead towards the provision of 'higher value' commercial uses. Please refer back to Section 1 of the Officer Assessment for clarification of this position.

Regarding economic considerations development for new employment purposes in this location is considered in accordance with the Development Plan and would present a benefit should it deliver a use on an empty site. The application is deemed to be aligned with employment policies contained within the Development Plan, notably Policy TJ1 of the Torquay Neighbourhood Plan and Policies SS4 and SS5 of

the Torbay Local Plan having regard to the fact that the development will deliver some form of employment on a site that has an extant permission for a similar use.

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

Job creation is a driver of economic growth and there would be economic benefits of bringing the site into an employment use. Aside the longer-term economic benefits the construction phase would also create jobs within the local economy. There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

The principle social benefit of the proposed development is that it would help deliver job opportunities in the local area. Initially the construction phase will provide activity and employment opportunities and longer term the provision of the retail unit will create job opportunities. These short and longer terms benefits weigh in favour of the development.

The Environmental role

The environmental benefits are considered neutral, with the form of development and planning conditions principally aligned with encouraging a sustainable form of building that is energy efficient etc. 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 when considered in the round.

Statement on Human Rights and Equalities Issues

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

Equalities Act - In arriving at this recommendation, due regard has been given to the provisions of the Equalities Act 2010, particularly the Public Sector Equality Duty and

Section 149. The Equality Act 2010 requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

Local Finance Considerations

CIL

Retail development (outside of the town centres, St Marychurch and Preston (as defined on the Local Plan Policies Map)) is CIL liable on development of over 300 square metres.

The proposal provides 2468sqm of retail floorspace as identified within the submitted CIL form.

Retail development attracts a rate of CIL at £120 per square metre, however mezzanine floors are not subject to CIL.

Notwithstanding the submitted CIL form, based on the submitted plans, it would appear that the CIL liability is 1858sqm (ground floor) plus the lobby floor area, which is 48sqm. This presents a total liable floor area of 1906sqm. This excludes the 487sqm identified mezzanine floor space.

Projected CIL liability from the development: £228,720.00. This is subject to scrutiny/confirmation from the Councils CIL/S106 Officer.

S106

Not Applicable. No obligations necessary to make the development acceptable.

EIA/HRA

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

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

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to promote economic growth would produce a positive impact overall. It is also noted that it will also trigger CIL payment of approximately £229,000.00.

Conclusions and Reasons for Decision

Subject to positive determination of the compound access and parking levels, informed by pending comments of the Highway Authority, the proposal is considered acceptable in principle; would not result in unacceptable harm to the character of the area, or local

amenity; and is acceptable in terms of access, ecology and flood risk matters. It would also provide economic benefits largely through supporting job growth.

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 for the reasons stated within this report.

Officer Recommendation

Approval: Subject to;

The receipt of Highway Authority comments and the resolution of access arrangements and parking levels to serve the development to the satisfaction of Officers.

The conditions as outlined, 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

Implementation Linked

The development hereby approved shall only be implemented in conjunction with planning permission P/2021/0123 (Groundworks). The development shall commence either at the same time as or after the commencement of development under planning permission P/2021/0123 and the conditions attached to both this planning permission and P/2021/0123 shall continue to apply and be enforceable notwithstanding the implementation of the development authorised by the other permission.

Reason: To secure an acceptable form of development and in order to protect the interests of ecology and biodiversity, in accordance with Policies TA2, DE1, SS8 and NC1 of the Torbay Local Plan 2012-2030 and TE5 of the Torquay Neighbourhood Plan and the NPPF.

Restricted Use

Notwithstanding the provisions of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or and Order amending or revoking said Orders, the building hereby approved shall at all times solely be used for the purposes of a home improvement retailer and for no other use.

Reason: To secure a satisfactory form of development within the locality and within a site with limited parking facilities, in accordance with Policies SS5, SDT3, DE1, TA1, TA2 and TA3 of the Torbay Local Plan 2012-2030.

Construction/Demolition Method Statement

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

Planning Authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from construction works, with priority given to reuse of materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012- 2030. This pre-commencement condition is required to ensure that highway safety and neighbour amenity is duly protected.

Hours of Construction

Hours of operation throughout the construction phase shall be between 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays.

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

Development Access

Prior to the first use of the building the service compound and associated access to the adjacent highway shall be completed and made available to serve the development. The service compound and access shall be maintained at all times thereafter to serve the development.

Reason: To secure an appropriate form of development and connection to the public highway, to ensure highway safety is maintained and network impacts are adequately managed, in accordance with Policies DE1, TA1 and TA2 of the Torbay Local Plan and advice contained within the NPPF.

Revised External Cladding Material

Notwithstanding detail on the submitted and/or approved plans, prior to the installation of the metal cladding to be used on the exterior surfaces of the building hereby approved revised details via samples, either digital or physical (identifying colour and form), together with a detailed design of their arrangement, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved details.

Reasons: In order to protect visual amenity and to maintain a satisfactory form of development, in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and TH8 of the Torquay Neighbourhood Plan.

Lighting Strategy

Prior to the commencement of development above the ground floor Finished Floor Level a detailed Lighting Strategy shall be submitted and agreed in writing by the Local Planning Authority. The strategy will minimise indirect impacts from lighting associated with operational activities, and demonstrate how the best practice (BCT/ILP, 2018) guidance has been

implemented. This will include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with any proposed buildings.

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

Reasons: In the interests of ecology and protected species, and to protect visual amenity and the amenity of adjacent occupiers by maintaining a satisfactory form of development, in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

CEMP - PC

No development (including demolition and ground works) or vegetation clearance works shall take place on any phase of the development hereby granted full planning permission until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".
- c) a detailed Lighting Strategy to minimise indirect impacts from lighting associated with the construction phase, which demonstrates how the best practice has been implemented (Bats and artificial lighting guidance note 2018).
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- e) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- f) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- g) Responsible persons and lines of communication.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1, C4, SS8 and SS9 of the Torbay Local Plan 2012-2030, and the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

LEMP

Prior to the construction of any buildings hereby granted full planning permission a Landscape and Ecology Management Plan (LEMP) for the development shall have been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include the recommendations included in the submitted and approved Ecological Assessment and all details relating to mitigation measures, species requirements, and the delivery of a net gain in biodiversity. The LEMP shall also seek to secure management of wildlife habitats for the lifetime of the development, detail for an ecological clerk of works to oversee all wildlife requirements, and set out compliance monitoring reporting to the Local Planning Authority at a timetable to be agreed. Development shall take place and the site managed in perpetuity in accordance with the approved LEMP.

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

Landscaping

Notwithstanding the plans submitted and/or approved, prior to the first occupation or use of the development hereby permitted a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority.

The Scheme shall include details of hard and soft landscaping, including all boundary treatments. Where applicable, it shall specify tree and plant species and methods of planting.

The hard landscaping shall be constructed as approved prior to the occupation/use of the development. The soft landscaping shall be planted in the first planting season following the occupation/use of the development, or in earlier planting seasons wherever practicable. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and design in accordance with Policies DE1, C4 and NC1 of the Torbay Local Plan 2012-2030, and advice contained within the NPPF

Repeat Badger Surveys

Prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved details.

Reason: To ensure protected species are duly considered, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF. These details are required pre-commencement in order to ensure certainty in regard to the presence and any forthcoming mitigation prior to potentially harmful operational works are commenced.

Ecology – biodiversity enhancement

Prior to the first use of the building measures to maximise opportunities for biodiversity enhancement in and around development, in order to deliver a net gain for biodiversity, shall be submitted to and approved in writing by the local Planning Authority.

The approved measures shall be incorporated within the development prior to the developments first use and maintained thereafter.

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

Energy

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

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

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 business meets Secured by Design standards as far as practicable.

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

Drainage

Prior to the first use of the development the submitted and approved surface water drainage system (plan reference 3467/FRA107 Revision P) 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.

Parking provision

Prior to the first use of the development the parking facilities hereby approved shall have been provided in full, including the provision of 4 demarked disabled spaces. These elements shall thereafter be retained in full as parking facilities to serve 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.

Electric charging facilities

Notwithstanding details supporting the application prior to the first use of the building details for the provision of electric charging facilities shall be submitted to and approved in writing by the Local Planning Authority.

The approved facilities shall be implemented in full prior to the first use of the development and maintained thereafter.

Reason: To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Cycle parking provision

Prior to the first use of the development the approved cycle parking facilities shall be completed and made available for the purpose of cycle parking to serve the development. Once provided, the parking facilities 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 THW6 of the Torquay Neighbourhood Plan.

Travel Plan

Prior to the first occupation of the development a Travel Plan and Implementation Strategy with SMART targets to seek to meet Policy requirements of 30% modal shift to foot, cycle and public transport, with appropriate mitigation measures should these targets not be met, shall

be submitted to and approved in writing by the Local Planning Authority. The approved travel Plan shall be implemented throughout the lifetime of the development.

Reason: To ensure sustainable travel modes are duly promoted, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Waste provision

Prior to the first occupation of the development details of waste and recycling storage facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be completed and made available for the purposes of waste storage to serve the development prior to the first use and once provided the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030.

Waste Audit and Management

Prior to the first use of the development a Waste Audit and 5-year Waste Management Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Waste Audits and 5-year Waste Management Plans shall include measures to:

- a) Prevent and minimise, re-use and recycle waste (including composting where appropriate).
- b) Minimise the use of raw materials.
- c) Minimise the pollution potential of unavoidable waste.
- d) Seek alternative modes of transport (to the use of roads) to move waste (wherever possible).
- e) Make provision for the storage and collection of waste.
- f) Dispose of unavoidable waste in an environmentally acceptable manner.

The Waste Audits and 5-year Waste Management Plans shall be implemented as approved.

Reason: To minimise waste from the development in accordance with Policy W2 of the Torbay Local Plan. These details are required pre-commencement as specified to ensure that waste generation is minimised from the start of the development and is dealt with in a sustainable way.

Boundary treatments / means of enclosure

Notwithstanding detail on the plans hereby approved prior to the commencement of development above the ground floor Finished Floor Level details of the security enclosure of the compound and outdoor project centre 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 treatment shall be retained as approved at all times thereafter during the lifetime of the development.

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.

Mobile Catering Unit

The mobile catering unit hereby approved shall only operate within the opening times of the main building and at no other times. The catering unit shall only operate within the location approved.

Prior to its placement within the approved location details of the form and materials of the catering unit shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To secure an appropriate form of ancillary service for customers and to protect local amenity and the visual character of the area, in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

Mezzanine Additions

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (GPDO), or any Order amending or Revoking said Order, no additional mezzanine floor space shall be provided within the building beyond that consented by this permission.

Reason: To ensure the impact upon parking and the highway network is duly considered within the development with limited on-site parking, in accordance with Policies DE1, DE3, TA1, TA2 and TA3 of the Torbay Local Plan 2012-2030.

PD Removal – Extensions (retail)

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class A, 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 shall be made to the retail unit hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policies DE1, TA2, TA3, C4, NC1 and ER1 of the Torbay Local Plan 2012-2030 and the Torquay Neighbourhood Plan.

Informative(s)

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

This permission does not grant consent for any form of signage shown on the plans hereby approved. An advertisement application should be submitted by the applicant and the merits of any signage will be considered within such an application.

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS4 - The economy and employment
SS5 - Employment space
SS8 - Natural Environment
SS9 - Green Infrastructure
SS14 - Low carbon development and climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 – Parking requirements
C4 - Trees, hedgerows and natural landscape
DE1 - Design

DE3 - Development Amenity
DE4 - Building heights
ER1 - Flood Risk
ER2 - Water Management
ES1 - Energy
W1 - Waste management facilities
W2 – Waste audit for major development and significant waste generating developments
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TJ1 - Employment
TH8 - Established architecture
THW5 - Access to sustainable transport
THW6: Cycle storage and changing facilities
TH2 - Designing out crime
TE5 - Protected species habitats and biodiversity