

Friday, 4 February 2022

PLANNING COMMITTEE

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

Monday, 14 February 2022

commencing at **5.30 pm**

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

Members of the Committee

Councillor Pentney (Chairman)

Councillor Brown

Councillor Kennedy

Councillor Dart

Councillor Barbara Lewis

Councillor Dudley (Vice-Chair)

Councillor Mills

Councillor Hill

Councillor Jacqueline Thomas

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

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

PLANNING COMMITTEE AGENDA

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

2. **Minutes** (Pages 4 - 9)
To confirm as a correct record the Minutes of the meeting of this Committee held on 10 January 2022

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 West Of Kings Ash Road, Paignton TQ3 3XF P/2020/0921** (Pages 10 - 63)
Formation of Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping & access works including new junction on A380 Kings Ash Road.

6. **Land Off Brixham Road - Former Nortel Site, Paignton TQ4 7BL P/2019/0278** (Pages 64 - 86)
Reserved Matters on application P/2014/0947 (Outline mixed use application for retail, business and residential uses with all matters reserved except for access (as revised by S73 applications P/2016/1372, P/2017/0123, P/2017/0571 and P/2017/1041)). Reserved Matters sought: Appearance, Landscaping, Layout & Scale for up to 255 Residential Dwellings (As revised)

7. **Torbay Hospital, Newton Road, Torquay TQ2 7AA P/2021/0431** (Pages 87 - 107)
Construction of three storey medical assessment unit, with patient drop-off point, vehicle turning head and associated landscaping works.
8. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
9. **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, 9 February 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

10 January 2022

-: Present :-

Councillor Dudley (Chairman)

Councillors Brooks, Brown, Mandy Darling, Steve Darling, Kennedy, Barbara Lewis,
Chris Lewis and Mills

88. Apologies for absence

It was reported that, in accordance with the wishes of the Liberal Democrat and Conservative Groups, the Membership of the Committee had been amended to include Councillors Mandy Darling, Steve Darling and Brooks instead of Councillors Pentney, Dart and Hill respectively.

As apologies for absence had been received from the Chairman, Councillor Pentney, the Vice-Chairman, Councillor Dudley, chaired the meeting.

89. Minutes

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

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

The Committee considered an application for the formation of a solar farm and associated equipment to include installation of fencing, CCTV, landscaping and ecological mitigation.

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 Adam Billings spoke in support of the principle of the application but raised objections to the details of the scheme including the siting of the solar panels and Mr Ed Brown and Mr Kevin Mowat addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published two representations which raised no new material considerations had been received in addition to the 17 objections which had already been received from 14 residential households.

Resolved:

That the application be deferred to enable consultation to be carried out with Devon and Somerset Fire and Rescue Service in respect of the concerns raised about fire issues and to ask if the applicant would consider if the panels could be located in the adjacent field to improve the visual impact and to engage with the community on an acceptable scheme.

(Note: Prior to consideration of this item Councillors Kenney and Mills declared a non-pecuniary interest as Chair and Vice-Chair of the Broadsands, Churston, and Galmpton Neighbourhood Forum respectively, which had been established following formal consultation of the application with the previous Brixham Peninsula Neighbourhood Forum and whilst they had both been involved with residents supporting the application declared to the meeting that they both had an open mind in considering this application and had not come to a decision until they had heard all the discussions at the meeting.)

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

The Committee considered an application for the use of disused tennis courts as climbing facility with climbing frames and clubhouse structures. (As amended by plans received 27.09.21.)

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 following additional condition:

Any structures hereby approved that become redundant shall be permanently removed from the site within 3 months of them ceasing to be used for their permitted purpose.

Reason: In the interests of maintaining the appearance and character of the site further to Policies SS10, DE1 and C5 of the Torbay Local Plan and Policies TH8 and TE2 of the Torquay Local Plan;

2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of

Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

92. 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. Late representations from Environment Agency and TDA Drainage Officer were circulated prior to the meeting. At the meeting Dr Rodney Horder addressed the Committee in support of the application on behalf of the Torquay Neighbourhood Forum.

At the meeting the Planning Officer confirmed that the Environment Agency had removed their objection as had the Drainage Officer subject to the imposition of additional conditions.

Resolved (unanimously):

Approved subject to:

1. the following additional conditions:

1. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved

Reason: In the interests of prevention of pollution, to protect human health and the natural environment;

2. Prior to the public toilet hereby approved being brought into use a flood emergency plan shall have previously been submitted to and approved in writing by the Local Planning Authority. The plan shall set out measures to ensure there is no public access to the toilet during times of flood.

The toilet shall not be brought into use until the agreed plan has been implemented and the plan shall be adhered to for the lifetime of the development.

Reason: In the interests of public safety;

2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

(Note: Prior to consideration of this item Councillor Steve Darling withdrew from the meeting as he had spoken about it in a radio interview earlier in the day before he was aware he would be sitting on the Committee and returned to the meeting after discussion of this item.)

93. Pavilion, Vaughan Road, Torquay P/2021/1167

The Committee considered an application for 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.

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. an additional condition requiring details of the scaffolding covering material to be submitted for officer approval;
2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

94. 50 Victoria Street, Paignton, TQ4 5EQ P/2021/0410

The Committee considered an application for the installation of free-standing advertising unit containing back to back digital displays.

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 a video was shown from Dr Catherine Fritz on behalf of the Paignton

Neighbourhood Forum against the application and the Clerk read out a written statement on behalf of Mr Richard Wilson in support of the application.

Resolved:

Advertisement Consent be approved subject to:

1. an additional condition requiring the planting of a tree, the siting and specification of which shall have previously been agreed in writing by the Local Planning Authority prior to installation of the advertisement;
2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

95. Land Off Orchard Way, Edginswell Torquay P/2021/1024

The Committee considered an application 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.

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):

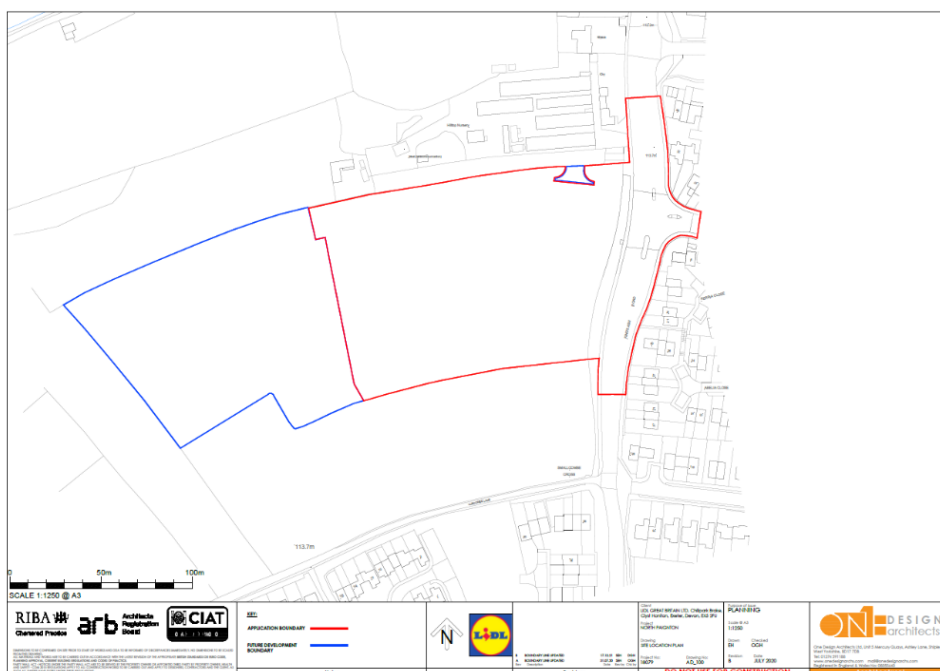
Approved subject to:

1. the imposition of a revised 'sale of Bulky Goods only' condition, to accord with comments received by the Highway Authority;
2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Chairman/woman

TORBAY COUNCIL

Application Site Address	Land West Of Kings Ash Road Paignton TQ3 3XF
Proposal	Formation of Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping & access works including new junction on A380 Kings Ash Road.
Application Number	P/2020/0921
Applicant	Ms Victoria George-Taylor - Lidl Great Britain Ltd
Agent	Mr Chris Tookey - RPS Planning & Development
Date Application Valid	19.10.2020
Decision Due Date	18.01.2021
Extension of Time Date	18.02.2022
Recommendation	Approval, subject to: <ul style="list-style-type: none"> 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. The completion of a S.106 agreement as per the Heads of Term as contained within the committee report; The conditions in the committee report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; Final consultation response from the Natural England confirming agreement to the Habitats Regulations Assessment.
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Emily Elliott



Site Details

The site is located on the outskirts of Paignton on the western side of Kings Ash Road and to the north of Luscombe Lane. The site is centred on National Grid Reference SX 87077 61687, approximately 2.00 km to the north-west of Paignton Town Centre and immediately south of Hilltop Nurseries.

In terms of scale and context, the site covers an area of approximately 2.025 hectares. The site is roughly 106m wide (N-S) by 150m deep (W-E). At present, the site is vacant and partially vegetated, last year the site was cleared of vegetation.

Regarding land levels, the site is elevated from Kings Ash Road. The north-western corner of the site is the highest point at approximately 120.87AOD and falls away to the south-western corner (116.57AOD) and south-eastern edge (107.26AOD). The north-eastern corner is 115.16AOD. There is also a banked area to the eastern border with Kings Ash Road.

In terms of the borders, the site is surrounded on its northern, southern and western sides by varying vegetation. To the north of the site is low density commercial and residential uses; to the east is Kings Ash Road and beyond is dense residential use; to the south is vacant vegetated land and beyond Great Parks Phase 1 residential development; and to the west is vacant vegetated land and low-density residential uses. The site has tree belts to both the northern and southern boundaries.

Regarding policy context the site forms part of the Great Parks Phase 2 Committed and Other Deliverable Development Sites as defined by Policy H1(.11) of the Torbay Local Plan and is also designated as the Great Parks Proposed Local or Neighbourhood Shopping Centre, as defined by Policy TC2(.4) of the Torbay Local Plan. The site forms part of Great Parks Phase 2 which comprises of approximately 11 hectares of undeveloped land on higher ground on the western edge of Paignton. Great Parks Phase 2 adjoins Great Parks Phase 1 which Phase 1 contains approximately 450 dwellings. Phase 2 is expected to deliver in the region of 265 new homes as well as delivering a new local centre.

Great Parks Phase 2 requires a new access from Kings Ash Road as the existing access to Great Parks Phase 1 at Cotehele Drive does not have enough capacity. The Masterplan envisages a new access for Phase 2 that will serve further new homes, a local centre, and facilitates improved pedestrian and cycle connections. Given the Local Highway Authority's works to Kings Ash Road the access into Great Parks Phase 2 must be via the application site

The site is located within the Ramshill (Westerland Way) Local Nature Reserve and is located within the Westerland Valley to Ocombe and Preston Countryside Area as defined by Policy C1 of the Torbay Local Plan. The site is located within the South

Hams Special Area of Conservation Greater Horseshoe Bat (GHS) Sustainance Zone and Landscape Connectivity Zone, which is the area surrounding the Designated Roost that includes critical Foraging Habitat and Commuting Roosts.

Description of Development

The application seeks planning permission for the Formation of a Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping and access works including new junction on A380 Kings Ash Road.

The proposed supermarket would be sited in the south-western corner of the site. The supermarket covers a rectangular footprint of around 70m by 33m. It is proposed to a commercial single-storey scale under a gently sloping mono-pitched roof. The elevations are finished in red brick panels with blue/grey brick piers and plinth. The supermarket will have 4 metre high glazing along the eastern elevation to provide natural light and modernise the visual appearance of the store, it will also wrap around a small portion of the northern elevation to provide a customer entrance lobby. The two smaller retail units (each 87 square metres internal footprint) are located in the north-eastern corner of the site and will be a single-storey building. The elevations are finished in red brick panels with blue/grey brick to plinth and piers. The smaller units will be finished in cladded panels close to the roof and including the roof. The glazing is floor to ceiling on the southern, eastern and western elevations.

Car parking is set to the north and east of the food store building. The car park would provide 137 spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. The proposal includes stepped pedestrian accesses in the north-eastern corner and on the western boundary, as well as a ramped DDA compliant access in the north-eastern corner.

In terms of levels the proposed ground level is cut and filled to provide a relatively level area of land. The level change is managed via retaining walls and a graded and landscaped bank.

In terms of the proposed access into the site this will be created off the western edge of Kings Ash Road. A new fourth arm will be introduced to the Kings Ash Road / Spruce Way signalised junction which will provide a new estate road for a wider development area. This fourth arm forms a spine road for the wider estate of the Great Parks Phase 2 and the site itself is accessed via the priority junction onto this spine road.

The proposal also includes other highway improvements such as an upgrade to the pedestrian crossing at Spruce Way, and a tactile crossing for the proposed spine road.

The proposed spine road would result in approximately 145 metres of tree belt lost from the northern boundary, however all other boundary vegetation will be retained.

Since submission the application has been amended, the key changes are as follows:

- The red line boundary has been extended to incorporate an extension of the access road, which will now be constructed to the western extent of the Lidl site, and to provide space for additional planting along the western boundary.
- A stepped pedestrian access has been incorporated on the western boundary into the site. This will be constructed as part of the development of the store and car park, but will be kept closed off until the adjoining land has been developed in order to prevent any trespass on to the site.
- Additional tree planting has been incorporated along the western boundary; the north boundary of the store site and along the northern edge of the access road.
- The two small retail units will now be built out alongside the store - Lidl are happy to accept a condition/S106 requiring those to be completed to a shell specification prior to the store opening.
- An acoustic fence is now incorporated on top of the retaining wall running alongside the delivery bay and around the plant area, to minimise the noise impact on any future housing on the neighbouring land. The new tree planting now proposed alongside the plant area will further assist in ameliorating noise, and Lidl are also willing to accept a condition on the planning permission to restrict the delivery hours.

Pre-Application Enquiry

DE/2020/0023: Construction of foodstore with associated parking and access: As a summary position the key issue is whether the scale of the proposal is appropriate to the nature and size of the centre and will complement its role and character, as set out in Policy TC3(B) of the Local Plan. In assessing this, the retail impact upon centres will then be key. Upon receipt of the Retail Impact Assessment: The visual impact and layout of the proposed development and its provision as a well-designed local centre that has considered the importance of public realm and provides a sense of place as set out in the SPG and Paignton Neighbourhood Plan is also critical. It should be noted that given the current climate, in particular with the future of high streets and town centres being uncertain, the Local Planning Authority will be assessing out-of-town proposals with particular scrutiny and how the proposal would enable residential development to be delivered.

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 Plans

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

Material Considerations

- National Planning Policy Framework (NPPF) - 26th July 2021
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Adopted Great Parks Masterplan (SPD) – November 2013
- 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/2013/0136: Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge. Approved 01/04/2014.

P/2012/0388: Alterations to Kings Ash Road/Spruce Way to provide a new link road to the West to allow access to proposed new housing development with access to Hilltop Nursery and associated widening to Kings Ash Road to provide new vehicle lanes shared footpath/cycle way and landscape verge. Withdrawn 18/02/2013.

Summary of Representations

Approximately 218 representations by approximately 185 individuals: 148 in support and 63 in objection, with 7 neutral.

Key issues of concern:

- Traffic and congestion
- Overdevelopment
- Not in keeping with the local area
- Impact on the local area
- Conflict with the Paignton Neighbourhood Plan
- Trees and wildlife
- Impact on Paignton Town Centre
- Noise
- Pollution
- Sets precedent

- Poor location out of town
- Impact on local businesses
- Littering
- Anti-social behaviour
- Access to natural light
- The masterplan does not envisage a food store in this location or of this scale

Key reasons for support:

- It provides facilities
- Accessibility for low income individuals
- It makes highway matters better
- Impact on local area
- Good location for use by local residents
- Create jobs
- It's shown in the Local Plan
- Residential amenity
- Will take pressure off The Willows/Tweenaway supermarkets
- Good location for sustainable travel for nearby residential development
- Improve the look / character of the area
- Will improve choice and reduce travel

Summary of Consultation Responses

Paignton Neighbourhood Forum: *(PNP response to scheme as originally submitted. PNP have been consulted on but have not commented on the scheme as amended).*

We strongly object. This proposal is a (very) typical out-of-town supermarket. It is oversized and out-of-character. The site is 4.3 times larger than envisaged by the consulted Great Parks Masterplan.

By Lidl's own data, the store will take revenue from other stores (including smaller local stores), and, crucially, from the town centre. The use of the term "no significant impact" will not go down well with the local business owners affected.

This application typifies a lip-service approach to the legal requirements of biodiversity and ecology, at the expense of the local residents of our (potentially) beautiful town of Paignton. Even the 'consultation' with the community will take place *after* the planning application process has taken place. We also note that the site was cleared prior to environmental assessments, archaeological assessments, or planning approval.

This application is NOT COMPLIANT with a number of very important Paignton Neighbourhood Plan policies.

In addition, discussion and feedback from Forum members, either directly or through our new Engagement Portal (at <https://portal.paigntonneighbourhoodforum.org.uk/application/2>), has shown the significant strength of negative feeling relating to this proposal.

We view this application as a test of the commitment of Torbay Council's Planning Committee to the residents of Paignton as expressed through the Paignton Neighbourhood Plan and the Paignton Neighbourhood Forum.

Given that EIGHT policies (PNP1, PNP1(a), PNP1(c), PNP1(g), PNP1(h), PNP2, PNP20, PNP22) are not compliant, we strongly object.

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

WSP on behalf of the Local Highway Authority:

The Highway Authority offers no objection to the proposed development, subject to the following conditions:

- A Section 106 agreement will be required to include a new pedestrian access into the western bound of the site to enable connection to the wider future development area. This should include a zebra crossing marked close to the entrance of the HGV delivery bay.
- Prior to the occupation of the development, a Travel Plan is required to be submitted to and approved by the Local Planning Authority detailing measures to achieve a 30% reduction for trips related to all potential users of the site (as per Policy TA2 of the Torbay Local Plan (2012 – 2030)). For the avoidance of doubt such measures are required to include a financial incentive to travel by a sustainable mode.
- Prior to the commencement of the development, a Construction Traffic Management Plan is required to be submitted to and approved by the Local Planning Authority.
- Prior to the occupation of the development, a Car Park Management Plan is required to be submitted to and approved by the Local Planning Authority which will include details of how and when HGVs will access the site to undertake deliveries.
- A Section 38 Agreement will be required for the Local Highway Authority, secured via a condition, to adopt the proposed spine road that forms part of this application and this should be secured within a Section 106 Agreement. As part of this condition, the applicant will be required to submit a Section 38 layout plan. This is due to the site being part of a wider residential 'allocation' (commitment) and a ransom strip would have the potential to obstruct delivery of the Phase 2 Great Parks residential development. It is also important to ensure connectivity and safe and suitable access for the wider development in the future.

- The spine road shall be built to an adoptable standard in accordance with the Torbay Highways Design Guide. The Local Highway Authority seeks to ensure that the proposed spine road would not restrict access to the highway for any third parties (thereby creating a “ransom strip”) through the Section 38 Agreement process.
- The site shall not be occupied until all estate roads required for access to the site have been constructed to adoptable standards in accordance with the Torbay Highway.

Design Guide for New Developments in force at the time of commencement of the development and an agreement has been entered into between the developer and the Council as Highway Authority under Section 38 of the Highways Act 1980 for the adoption of all of the estate roads, including the central spine road up to the edge of the site boundary.

Reason: To ensure that the estate roads serving the development are completed to an acceptable standard and are available for use by the occupants and other users of the development in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030

- The Local Highway Authority will seek the necessary S278 works or S106 planning contributions that are essential to make the scheme acceptable in planning terms. Such as the existing pedestrian crossing on the Spruce Way approach to the Kings Ash Road / Spruce Way signalised junction is to be formalised with the introduction of push buttons and pedestrian signals.

Natural England:

No objections subject to a Section 106 agreement to secure the off-site mitigation, planning conditions and revision of the Appropriate Assessment.

The full consultation response can be found on the Council’s website.

An update shall be given to Members at Planning Committee.

Devon County Council’s Ecologist:

No objection subject to planning conditions and a S.106 agreement to be set up between the applicant and Groundwork via Torbay Council. This agreement will be for the delivery of offsite habitat creation and management.

The full consultation response can be found on the Council’s website.

Devon County Council’s Archaeologist:

No objection subject to a planning condition securing the Written Scheme of Investigation.

Torbay Council Senior Planner, Strategy and Project Management Officer:

The proposal is somewhat different from the indicative design shown in the masterplan SPG. Although the masterplan is not a statutory document, it is given weight by its endorsement by Policy PNP20 of the Paignton Neighbourhood Plan. The main policy concern I have identified relates to the loss of housing land resulting from a larger retail area, rather than the scale of the retail proposal per se.

We have not finally resolved the numbers of dwellings that would not be achievable. My email of 11 February suggests that this could be up to 70 dwellings, although this is a worst-case scenario and a significant number of the unachievable dwellings would be apartments over the local centre stores, rather than family houses. The actual number is likely to be considerably less. We have to balance this against the length of time that the Great Parks Phase 2 area has remained undeveloped. The site has been proposed for development since at least the early 1990s, and should according to the original phasing have been built out in the early 2000s, following the completion of Great Parks Phase 1. On this basis, access and other highways works that Lidl are able to do to expedite the outstanding areas of housing would make up for the loss of numbers. I note that the proposal has been further revised to increase the amount of access road provided by Lidl, and creation of a stepped pedestrian access to the west. The revisions also includes an acoustic fence and additional planting to reduce the impact on the amenity of future housing.

I would prefer it Lidl could be persuaded to enter into a s106 agreement to use their best endeavours to dispose of the remainder of the site for housing speedily. In any event, the opening up of the site for development should aid implementation of the residential element of the site.

In relation to the requirement for car club parking in PNP22 and PNP1(h). I don't think it would do any harm to ask Lidl if they would be willing to identify a parking space prioritised for car club use (possibly alongside the families with children prioritised parking). However, I don't know whether a car club exists in the area, which would make it unreasonable to require a space to be reserved just for that use. Provision of cycling spaces, EV charging points and walking links would in my view be more central to securing compliance with the PNP policies (as well as TA1-3 of the Local Plan). In reaching a view about the proposal, the LPA has to take a view about whether the proposal is in accordance with the development plan taken as a whole. Development plans frequently pull in different directions or have requirements that cannot be met in their entirety. I cannot see that dedicated car club transport places would be pivotal either way to the determination of the application.

The proposal appears to in accordance with the retail policies in the Local Plan, despite some tension with the PNP and the masterplan. However, the loss of housing appears to have been satisfactorily mitigated; and the proposal provides employment and social benefits. Achieving development of the site is a further consideration in favour of the proposal. On this basis, I do not wish to raise a policy objection.

Retail Advisor to the Council (Avison Young):

This advice report has considered two particular issues associated with retail / main town centre planning policies in relation to an application for three retail units (and associated development) on land adjacent to Kings Ash Road in Paignton:

- the relationship of the proposed development with the retail/main town centre land use elements of the development plan allocation for a new 'centre' in the Great Parks area of north-west Paignton; and
- the forecast likely impact of the proposed retail floorspace on the health of, and investment within, nearby defined 'town centres'.

Whilst there can be no doubt that the development plan for the local area allocates the application site for a new 'centre', the Local Plan and the Neighbourhood Plan use different terminology for the new 'centre' and the Local Plan provides a level of floorspace for the new 'centre' which is different to the scale in this planning application.

Therefore, whilst the application proposal is providing retail and main town centre land use floorspace to meet, in general terms, the development plan requirement for the provision of such uses in a new 'centre' in this part of north-western Paignton, we do not consider that there is complete compliance with the development plan insofar as retail/main town centre land use policy issues are concerned. As a consequence, we consider it prudent for the Council to consider the sequential and impact policy tests, although this should be undertaken in a proportionate way given the particular policy circumstances of this application proposal. Consideration should also be given to the relationship of the proposal with Part (b) of Policy TC3 of the adopted Local Plan.

With regards to impact issues, we have examined the assessment provided by the applicant and also incorporated additional data which has been submitted in support of an application for a new foodstore at Kerswell Gardens in Torquay. This assessment has been undertaken in a proportionate way, bearing in mind the location/allocation of the application site and has found that there is unlikely to be significant adverse impact upon the health of nearby 'town centres'.

In light of the foregoing analysis, it is our view that whilst the content of the current planning application at Kings Ash Road does not offer complete compliance with retail/main town centre land use policy elements of development plan policy, it is nevertheless still helping to deliver the general aims of policy and our assessment of the likely impact of the proposal suggests that it is unlikely to have a significant adverse impact. This conclusion will also assist the Council in assessing the application against Policy TC3(B) of the adopted Local Plan and it is our advice that whilst the scale of the proposed floorspace is greater than what may have originally been intended, it is not so great (subject to appropriate controls) as to cause any significant conflict with the role and function of the neighbourhood centre. In any event, the content of the

current application will also help support the second part of TC3(B) and provide facilities which contribute to the long-term vitality and viability of the new centre and the provide the ability for the local population to meet their needs locally.

Landscape Advisor to the Council (Jacobs):

LVIA - Summary

We consider the proposed vegetation removal would create a substantial gap in the north eastern area of the site visually exposing large portions of the proposed development in close range views from the north and east/ south east. The proposed mitigation tree planting lies adjacent to an area of retained boundary vegetation and is dotted within the car park and along the eastern edge and not opposite those planned for removal and as such, the 'gap' is not remediated. This proposed removal would undermine the visual integrity of the group and fragment the continuity and strength of the tree belt. We consider that this would cause a greater magnitude of change than that reported upon in the LVIA, especially upon landscape character and visual receptors to the north and those to the east and south east.

In order to effectively mitigate this to reduce any potential significant long-term effects, we suggest the following in regard to amending the design proposals.

Design: Northern boundary

It has been established that the existing boundary vegetation provides positive characteristic components that will aid in the development of this site providing valuable screening for integrating the new development into the landscape. The design should be explored further to see if a strong vegetation belt along the northern boundary can remain in the long term. Can any notable mitigation planting be included behind the proposed retaining wall? If there is not sufficient space, can the proposed retaining wall be moved south to create space for meaningful planting, by removing the proposed northern footway along the access road? Given the vulnerability of the existing vegetation to ash dieback, any proposed new planting should be resilient to disease and climate change. We recommend that this is given further consideration.

If this is completely unachievable and vegetation removal along the northern boundary is deemed acceptable then it is suggested the applicant considers extending the proposed native hedgerow and tree line between the access road and car park, immediately opposite those planned for removal. In order to partially mitigate the 'gap' created but to also reinstate a cohesive visual screen and robust tree line along the contours.

The proposed species should be resilient whilst appropriate for the area. The tree species schedule on the landscape plan is deemed appropriate for the area whilst providing resilience and diversity. As these trees would be placed at the back of the proposed footway this should be acceptable for keeping visibility splays clear. Tree

stock selection with a taller clear stem may be required if there is any conflict in this regard.

If this scheme is approved and does become a '*catalyst for residential development to come forward on the remaining Phase 2 land*' (extract; applicants letter dated 10/09/2021) then it would be reasonable to surmise that the remaining trees in this group could be also subjected to removal possibly in full with the indicative road shown in the blue area. The proposed trees shown on the landscape proposals adjacent to this are welcomed as these would aid in minimizing this potential future loss upon the visual amenity.

Design: Southern boundary

The council should request detail of the southern retaining wall and any earth banking proposed to ensure the RPA of the group G3 is not affected. If permission is granted, we recommend this is covered with a pre commencement condition.

As this tree belt will be relied upon for providing valuable screening of the proposed development from the south and east, the Council may wish to consider ensuring the southern boundary tree belt is bolstered with native tree planting along its southern edge when planning applications are sought for development of the land to the south. The proposals for this Lidl application will create a shaded area between the proposed retaining wall and the existing tree belt along the southern boundary, which would cause difficulties in establishing any bolster planting on its northern side within the red line boundary.

Survey

Further topography and tree survey work should be requested (with consent from the adjacent landowner) along the southern boundary of the site. This is in order to establish the exact location of trees and ground levels to gain a more detailed understanding of the tree constraints on the southern boundary to ensure their safe retention in regard to the proposals.

SWISCo's Waste Client Manager:

I have no comment to make regarding this development. There is adequate space for waste and recycling storage and as a commercial enterprise it will be for Lidl to choose their own waste/recycling collection contractor.

Torbay Council's Senior Tree and Landscape Officer:

I am satisfied with the landscape proposals as laid shown. A compliance condition will be required for the two documents.

Torbay Council's Community Safety Officer:

No objections. However, the comments I made in my previous memo of the 07/12/2020 regarding the potential impact of noise from this development on future

residential development remain valid. I would also recommend a condition is included regarding a construction management plan.

Police Designing Out Crime Officer:

No objection in principle, detailed advice provided that can be viewed on the Councils website. Key points are as follows:

- Access and Movement (Permeability)
- Structure – (Design & Layout)
- Surveillance (Natural, Formal & Informal)
- Ownership
- Physical protection
- Activity
- Management and maintenance

Torbay Development Agency Drainage Engineer:

No objections subject to planning conditions.

South West Water:

No objection. For information it has been agreed that if required a surface water connection to the dedicated public surface water sewer network would be permitted.

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

The application seeks planning permission for the Formation of a Lidl Supermarket (Class E(a)) and two ancillary Class E (a)(b)(c) units with associated parking, landscaping and access works including new junction on A380 Kings Ash Road.

Torbay Council has reviewed the Local Plan at its five-year anniversary (December 2020). Although the housing supply position means that policies most important to determining applications for housing must be deemed to be out of date; the retail and other policies in the Local Plan remain relatively consistent with the NPPF and have

been assessed as being up to date. This is, in part, because they seek to promote economic recovery and flexibility (see Policy SS3). Whilst the current application may help unlock housing at Great Parks Phase 2, it is not a proposal for housing (and indeed will reduce the amount of homes that can be built at Great Parks Phase 2). The PNP was Made in June 2019 and Policy PNP20 applies directly to the site.

Accordingly, the policies most important to determining the application may be considered to be up to date and there is no reason to activate a tilted balance, given paragraph 11(d) of the NPPF.

The Great Parks Masterplan envisages a local centre having approximately 550 square metres of retail floorspace between three units (1 x 376 square metres and 2 x 87 square metres). The Masterplan indicatively shows a layout and an illustration of a three storey pitched roof terraced building which is said to be a 'landmark building to define main access and gateway'. The proposed local centre falls within the 'hub' as shown within the Masterplan whereby a new access to Kings Ash Road will provide the main approach to the development and serve a new local centre positioned on higher ground. The Masterplan seeks a retail, residential and community land use within the 'hub', with 45-50 dwellings per hectare, 2-3 storeys in height, buildings at the back of the pavement.

It is considered that the current application provides one large Class E(a) unit and two smaller Class E(a)(b)(c) units, which sit back from the pavement. It should be noted that the failure of Great Parks Phase 1 to deliver a local centre, requires the existing community to walk more than 10 minutes to a local shop. The proposed site is approximately 2.05 hectares; given the Masterplan the proposal results in a loss of approximately 90-100 residential units, however it more likely to be approximately 70 residential units given the local centre and necessary infrastructure, not necessarily dwellings, given that the indicative illustrations and text refer to apartments above the local centre. As Great Parks Phase 2 comprises of approximately 11 hectares of undeveloped land, the proposal utilises approximately 18% of the allocated land.

Policy PNP1 of the Neighbourhood Plan states that in all parts of the Paignton Neighbourhood Plan Area a balanced delivery of growth, biodiversity enhancement and more sustainable means of travel will be supported. Development proposals will be supported which:

- a) provide new employment on sites able to meet infrastructure needs and biodiversity enhancement;
- b) provide new employment in decentralised locations that reduce travel needs, involve new technologies, and will assist moving towards a low carbon economy;
- c) provide housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2015, including affordable housing;
- d) bring back into use existing homes that have been vacant for 6 months or more;

- e) e) provide additional homes by the conversions of existing buildings, more efficient use of vacant buildings in all use classes, self build; and community-led housing enterprises wherever possible;

Development will not be supported where:

- f) the development proposal would result in an adverse impact on a European protected site;
- g) the provision of houses in multiple occupation (HMOs) would adversely affect the tourism offer, worsen concentrations of deprivation, create conditions of community conflict

Protecting Local Identity - The plan seeks to ensure that safe key areas of rural landscape, Local Green Space, and food production are safeguarded and enhanced to ensure an improvement in tourist appeal, enhance biodiversity and community wellbeing. This will be achieved by applying Policy PNP1 (and its subsections) to all development proposals where appropriate.

Achieving Sustainable Development - Sustainable development will be achieved by ensuring a balanced provision of new development through supporting:

- i) job led growth and housing provision being kept in balance by regular (annual) reviews;
- ii) balanced growth of food retail floorspace;
- iii) enhancement of local identity, heritage features, renewable and low carbon energy and construction solutions;
- iv) foul and surface water drainage and other key infrastructure being required when major development (as defined in the Town and Country Planning Procedure (England) Order 2015) applications are first submitted, and not being dealt with subsequently by conditions;
- v) encouraging local food growing and production across the Plan area to increase and improve local food production assets and deliver community social and health benefits.

Great Parks Position in the Retail Hierarchy

It is reasonable to treat the application site as a proposed Local Centre. The area has been designated for development since the early 1990s. It is shown as committed development on the policies map of the Local Plan 2012-30 (CDSP3).

Local Plan Policy TC2.4.13 designates part of the Great Parks allocation as a Neighbourhood Centre, and an indicative (but smaller) area is indicated on the Policies map in roughly the position of the current application. The Local Plan does not specify the size of stores that are appropriate in Local Centres, and supermarkets have been built in Local Centres along the Western Corridor at Yannons (TC2.3.18) and White Rock (TC2.3.19). Paragraph 6.1.1.9 indicates that Neighbourhood Centres are typically small parades of limited provision serving a local catchment, a likened to

comments in the glossary to the NPPF. However, paragraph 6.1.1.8 indicates that when completed Great Parks would have a role in the retail hierarchy.

Policy TC3 (B)1 of the Local Plan requires proposals within Local Centres to be of a scale appropriate to the nature and size of the centre and to complement its role and character. They should also contribute to the long-term vitality and viability of the centre and help people meet their needs locally.

Policy PNP20 of the Neighbourhood Plan notes that development should be carried out in accordance with the Great Parks Masterplan. The Masterplan is a non-binding Supplementary Planning Guidance (not a Supplementary Planning Document) but is given weight by the endorsement of PNP20. Figure 6.11 of the PNP shows a “Local Centre” at Great Parks Phase 2 on broadly the application site (taken from the Masterplan). The Masterplan expects a store of up to 550 square metres. This is shown indicatively as one unit of 376 square metres and two of 87 square metres. The 550 square metres figure is also noted indicatively in Table 15 attached to Policy SDP3 of the Local Plan. 550 square metres would equate to a Tesco Express or similar small-format store. The current application is for 2,175 square metres gross/1,410 square metres net trading area, which is significantly larger than envisaged in the Masterplan, and takes up a greater portion of the site than envisaged in the Masterplan. Two smaller units of 87 square metres are also proposed to make the area a genuine local centre rather than a standalone supermarket, these might attract uses such as a café or hairdresser for example. The Masterplan envisages a local centre facility for new and existing residents at Great Parks, that will include the provision of local shop(s) and flexible space for further community facilities or services.

The Masterplan states that the local centre could also provide flexible floor space to accommodate other community and service uses such as hairdressers, dry cleaners or take-away restaurant. Residential apartments could be provided at upper floors helping to reinforce the ground activities and bring natural surveillance to the courtyard space. Apartments would also benefit from attractive views to the coast. The new local centre would occupy a prominent position on higher ground to the north-west of the site, where a visible landmark building could define the new access. High quality public realm materials can define the boundary to the local centre and announce arrival at Great Parks. The Masterplan goes on to state that the local centre can be development up to three storeys that will enable residential uses above ground floor to reinforce commercial uses and deliver attractive far reaching coastal views.

Whilst Policy PNP2(c) seeks, very properly, to focus retail within the town centre, this cannot be taken as a ban on out of town-centre retail above the usual tests set out below.

On this basis, it seems reasonable to treat the site as a proposed Local Centre, with a position in the retail hierarchy; but the proposal is significantly larger than envisaged by the development plan and therefore is in conflict with the plan.

Avison Young were appointed on behalf of the Local Planning Authority to consider two particular issues associated with retail / main town centre planning policies in relation to this application which includes three retail units (and associated development) on land adjacent to Kings Ash Road in Paignton:

- the relationship of the proposed development with the retail/main town centre land use elements of the development plan allocation for a new 'centre' in the Great Parks area of north-west Paignton; and
- the forecast likely impact of the proposed retail floorspace on the health of, and investment within, nearby defined 'town centres'.

Whilst there can be no doubt that the development plan for the local area allocates the application site for a new 'centre', the Local Plan and the Neighbourhood Plan use different terminology for the new 'centre' and the Local Plan provides a level of floorspace for the new 'centre' which is different to the scale in this planning application.

Therefore, whilst the application proposal is providing retail and main town centre land use floorspace to meet, in general terms, the Development Plan requirement for the provision of such uses in a new 'centre' in this part of north-western Paignton, it is not considered that there is complete compliance with the Development Plan insofar as retail/main town centre land use policy issues are concerned. As a consequence, it is considered prudent for the Council to consider the sequential and impact policy tests, although this should be undertaken in a proportionate way given the particular policy circumstances of this application proposal. Consideration should also be given to the relationship of the proposal with Part (b) of Policy TC3 of the Local Plan.

With regards to impact issues, Avison Young have examined the assessment provided by the applicant and also incorporated additional data which has been submitted in support of an application for a new foodstore at Kerswell Gardens in Torquay. This assessment has been undertaken in a proportionate way, bearing in mind the location/allocation of the application site and has found that there is unlikely to be significant adverse impact upon the health of nearby 'town centres'.

It is considered that the proposal does not offer complete compliance with retail/main town centre land use policy elements of development plan policy, it is nevertheless still helping to deliver the general aims of policy and their assessment of the likely impact of the proposal suggests that it is unlikely to have a significant adverse impact. Furthermore, whilst the scale of the proposed floorspace is greater than what may have originally been intended as per the Great Parks Masterplan, it is not so great (subject to appropriate controls) as to cause any significant conflict with the role and

function of the neighbourhood centre. In any event, the proposal will also help support the second part of TC3(B) and provide facilities which contribute to the long-term vitality and viability of the new centre and the provide the ability for the local population to meet their needs locally.

As advised at pre-application stage, the sequential and impact tests required by Paragraphs 87 et seq. of the NPPF and TC3 of the Local Plan are the appropriate tools to assess retail proposals where there is conflict with the development plan. In addition, the LPA must consider other material considerations such as the economic and sustainable communities' impact of the proposal.

Sequential Test

Guidance on the sequential test is provided in 2b-009-20190722 of the NPPF but is also subject of extensive case law. The applicant has cited case law indicating that the sequential test requires applicants only to identify the broad type of development being proposed by the applicant (particularly the Supreme Court's ruling on *Tesco v Dundee* [2012] UKSC13). This case defines the scope to which the sequential test requires flexibility and realism by both the Local Planning Authority and the applicant (paragraphs 28 and 38), but is clear that the real world needs of the applicant must be taken into account.

The applicant has carried out a sequential test of both Paignton town Centre and Preston District Centre and has not identified a suitable and available site for a store of the size or the format they propose. Lidl currently operate within Paignton Town Centre (Victoria Square) and no other site of sufficient size is identified either within the town/district centres or edge of centre. It should be noted that there is already a Section 106 agreement in place that Lidl signed in order to secure permission for their White Rock store, which requires them to keep the Victoria Square store open until 2024. Lidl have declined signing up to an additional Section 106 agreement for this current proposal as the Victoria Square store has been under-performing for some years and runs counter to the Council's strategy for the town centre, including the Torbay Development Agency actively working on bringing forward redevelopment at Victoria Square, the TDA's Regeneration Project Manager, has confirmed that: i) subject to funding and agreeing terms they wish to purchase Lidl's leasehold at Victoria Square; and ii) Torbay has been offered funding in principle by the Government under the Future High Streets programme. Furthermore, given the tests set out in the CIL Regulations are not met in that it is not necessary to make the development acceptable in planning terms, or reasonable in scale and kind.

Impact Test

The applicant has submitted an Impact Assessment. Retail applicants are not required to demonstrate retail need, but an assessment of need is relevant to considering the retail impact.

Whilst the scale of proposed Class E floorspace, particularly the foodstore, is greater than the floorspace figures contained within the adopted Local Plan, the assessment of the likely impact of the proposal does not indicate a likely significant adverse impact upon any nearby defined 'town centre'. Moreover, the assessment of the trading effects of the proposal will assist with an examination against Policy TC3(B) of the Local Plan and whilst its role and function is arguably larger than the definition of neighbourhood centres in the Local Plan, it is helping to meet the general Development Plan aspiration for new retail/main town centre floorspace in this part of Paignton and also that the proposal will contain uses which will maintain its health and attractiveness and serve the local community.

Impact on Small Shops/ Foxhole Local Centre

Representations have been made about the impact of the proposal on other shops in the area. There is also likely to be an effect on other local centres, particularly Foxhole Local Centre (TC2.3.14), which contains a small food store. No breakdown of the impact on individual nearby local centres is provided. It may be that the Foxhole local centre would still meet more day-to-day needs, as well as providing functions such as hairdressers, takeaway etc. As a local centre the proposed Great Parks store has a place in the retail hierarchy similar to Foxhole and planning cannot consider competition between retailers.

A store of up to 550 square metres at Great Parks will have some "planned" impact on the Foxhole Local Centre, and it is really only the additional impact of a much larger store that can be taken into account. Nevertheless, potential harm to the Foxhole local centre due to the size of the proposed store at Great Parks Local centre is a relevant consideration. The applicant has provided information that predicts £0.5 million of diversion from small shops/local stores will be spread across a number of stores and will not cause a significant adverse harmful impact. As the application site has an allocation for some retail floorspace in the Development Plan, it is considered that there is some acknowledgement that there would be some redistribution of trade however this would be associated with larger foodstores and supermarkets elsewhere. Therefore, it is considered that the proposal's impact on small shops and the Foxhole Local Centre would not be detrimental.

Economic and Social Benefits

The proposal would bring significant economic and health benefits in terms of access to fresh food and employment. Analysis of the 2019 Indices of Deprivation show that the proposed Lidl would be in the catchment of several areas of localised deprivation. The Foxhole area (directly to the east) falls within the 10% most deprived areas in term of overall indices of deprivation and also in the income, employment, education, health and deprivation affecting children domains. This is a serious basket of multiple deprivation. Queen Elizabeth Drive (QED) to the south generally falls within the 20% most deprived lower super output areas in the 2019 Indices, although some very localised poverty in this area is likely to be more severe. Whilst there are supermarkets

within 5 minutes' drive time of these areas, many of the residents may not have access to a car.

The proposal would create employment both in the construction phase and create up to 40 jobs during the operation. Both the Local Plan and the PNP seek to boost employment and reduce deprivation (e.g. Local Plan Policies SS4, SS5, SS11, SC3, SC5, and Neighbourhood Plan Policies PNP1). Turning the tide on poverty is a priority in the Community and Corporate Plan.

Access to healthy food is a key benefit supported by Policy SC1 of the Local Plan, and draws some support from the Healthy Torbay SPD. The individual store operator is not primarily a planning issue, however a larger store will typically be able to provide food at lower cost than much smaller shops, as covered in the applicant's Retail Statement. Deep discounters such as Lidl do have a significant amount of fresh fruit and vegetables as part of their offer. The current pandemic has highlighted the importance of access to essential retail needs, as well as increasing the importance of boosting the economy and supporting measures to aid the economic recovery.

The proposal is CIL liable at £120 per sq. m, i.e. circa £311,748.08, of which 25% must be spent locally. This is a local finance consideration that may be treated as a material consideration in the determination of the application.

To realise these economic and social benefits, it will be essential to ensure good walking and cycling links to the surrounding residential area, particularly to the Foxhole area, but also to Great Parks. These will also be essential to make the centre function as a local centre rather than just a car-borne shopping destination.

Impact on Delivery of Housing at Great Parks

Great Parks has been allocated for development since the 1980s. Despite efforts since the early 2000s to unlock development, delivering the full extent of phase 2 has been difficult due to various issues including the complexity of the 1991 and 1995 Planning Agreements, infrastructure costs, multiple ownerships and access issues. The smaller Local Centre, has been proposed on various parts of the site since at least 1991 but failed to attract local interest.

The Lidl store will inevitably reduce the amount of available housing land within the remainder of the CDSP3 part of the Great Parks Phase 2 area. However, despite being originally conceived as a mixed-use area with a school and more varied local centre, very little but housing has been built at Great Parks. Accordingly, a larger Local centre may be justified if it clearly helps deliver the remaining housing at Great Parks.

The applicant has revised the scheme to deliver approximately an additional 70 metres of the spine road which will lead into the future housing area, has undertaken to market the remaining land in its ownership for housing and has agreed to enter into a S.106

agreement to allow an access through its land to adjoining land allocated for housing. It is considered that the subject to the above the development will be the driver and catalyst to bring housing delivery forward on the remaining Gt Parks 2 area

Accessibility

The issue that the proposed food store should unlock the adjacent housing land, is integrally linked to the need for road layouts to provide road, walking and cycling links to the adjacent residential areas. This will help it function as a local centre and increase the permeability through Great Parks to minimise the amount of local traffic needing to use Kings Ash Road. This will help encourage walking and cycling and reduce car use, which will assist in reducing the impact on Kings Ash Road and also help with carbon reduction as sought by Development Plan Policies, such matters are covered within the highways section of this committee report.

The Retail Planning Policy Balance

The most directly relevant development plan policies for this proposal are TC2 and TC3 (B) of the Local Plan and PNP20 of the Neighbourhood Plan. The scale of the proposal is in conflict with Policy PNP20 and TC3 (B)1 of the Local Plan. However, the proposal would help people meet needs locally (TC3(B)2) and could assist the delivery of Great Parks as a mixed-use area.

There would be some impact on the Town Centre and District Centre, and potentially Foxhole but the retail analysts advising the Council have stated this would not be significant and would not justify the refusal of planning permission. The proposal would have significant benefits of providing employment and fresh food to deprived areas around Foxhole and QED. The Covid pandemic has highlighted the need for local food networks and also increased the importance of economic recovery. Given that the Local Plan, and the Community and Corporate Plan both seek to secure economic recovery, create jobs and turn the tide on poverty, these benefits carry significant weight in favour of the proposal.

Section 7 of the NPPF aims to ensure the vitality of town centres. Paragraph 87 states that "*local planning authorities should apply a sequential test to planning application for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan*". Paragraph 88 states "*when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and the local planning authority should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored*". Paragraphs 87 and 88 of the NPPF set out the requirement for a Sequential Test, it is considered that the Sequential Test has been achieved.

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 (Paragraph 126). Policy PNP1(c) is the key policy tool within the Paignton 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 Local Plan outlines the importance of good design and is also a key policy tool in design terms and Policy DE4, which principally seeks development to be built to the prevailing height within the local area.

In terms of context the visual character of the site, the site was previously heavily vegetated open land but currently has 2 metre high hoarding around the site which the applicant erected under permitted development. The site is now only partially vegetated as the applicant cleared the site in 2020. This did not require planning permission, but compliance with relevant wildlife legislation.

The site is located within an area designated as “Countryside Area” as defined by Policy C1 of the Local Plan, yet a “Committed other Deliverable Development Sites” within the Local Plan. The site is located in a prominent position and at a high level and as identified in the Landscape Character Assessment for Torbay, this area is *‘Located at the head of a steep secluded valley, the steepness of the land has led to the retention of the field pattern which often runs along the contours and subdivides pasture fields.’* And also notably *‘The elevation of much of this land means that there is the potential for changes to be very apparent and mitigation measures are unlikely to be particularly effective.’* There is an acceptance that the character of the site will undergo some change given its development site allocation, however this should be done sensitively to ensure any development integrates well into the landscape it is located within.

Landscape and visual impact

The application has been supported by a Landscape and Visual Impact Assessment (LVIA). Landscape consultants Jacobs were instructed by the Council to review and comment on the applicants LVIA and they consider that the methodology used to undertake this LVIA is deemed appropriate and in accordance with *The Guidelines for Landscape and Visual Appraisal (3rd Edition)*, Landscape Institute and IEMA, 2013 and also *‘LI Technical Guidance Note 06/19, Visual representation of Development Proposals’*, Landscape Institute, 2019. The LVIA predates the current version of the detailed landscape proposals however. The applicant has provided no addendum or update to the LVIA in line with changes made since it was originally produced.

The 5km study area and 7 representative viewpoints selected for the LVIA is deemed proportionate to the scale of the proposals. Jacobs undertook a site visit made on the 3rd November 2021 and agreed with the LVIA conclusion that the area of visual influence is close range generally limited to an area approx. 1 – 1.5km from the site

boundary. Jacobs have addressed the discrepancies with the design changes: the applicant is proposing to remove a portion of the northern boundary tree belt (Group G1.1 and G1.2) due to the impact caused by the location of the proposed access road into the site from the A380 Kings Ash Road and the proposed cut and fill. The applicant proposes to retain the southern boundary vegetation (Group G3) and protect it from the proposed works.

Jacobs consider it reasonable to conclude that the existing tree belt to the north of the site would provide effective screening of the proposed building, however views from higher ground to the north and west would well gain a birds eye perspective of part of the higher portions of the proposed development seen above the tree line. Jacobs also consider it reasonable to conclude that the existing tree belt to the south of the site would provide some effective but partial screening of the majority of proposed building, concealing the majority of the lower portions of the development from views from the south and south-east. It should be noted however that it is not yet known if this tree belt can be retained when the land to the south is developed for housing as allocated.

Jacobs consider the proposed vegetation removal would create a substantial gap in the north-eastern area of the site visually exposing large portions of the proposed development in close range views from the north and east/ south-east. The proposed mitigation tree planting lies adjacent to an area of retained boundary vegetation and is dotted within the car park and along the eastern edge and not opposite those planned for removal and as such, the 'gap' is not remediated. This proposed removal would undermine the visual integrity of the group and fragment the continuity and strength of the tree belt, Jacobs consider that this would cause a greater magnitude of change than that reported upon in the LVIA, especially upon landscape character and visual receptors to the north and those to the east and south east. In order to effectively mitigate this to reduce any potential significant long-term effects, Jacobs have suggested the following in regard to amending the design proposals:

- If the vegetation removal along the northern boundary is deemed acceptable then it is suggested the applicant considers extending the proposed native hedgerow and tree line between the access road and car park, immediately opposite those planned for removal. The proposed species should be resilient whilst appropriate for the area ensuring that visibility splays are kept clear.
- Request detail of the southern retaining wall and any earth banking proposed to ensure the root protection area of the group G3 is not affected as a pre-commencement condition.

The applicant has revised the proposals which now includes extending the proposed native hedgerow and tree line between the access road and car park, which is considered to provide mitigation against the northern tree belt that will be removed. It is considered that the proposed development would have a negative adverse impact on the landscape, given that it results in almost the total loss of the northern tree belt and the proposal will be visible from a number of public vantage points, however the

site is allocated and is only part of a much wider allocated site, so eventually all the undeveloped 11 hectares will be developed. Furthermore, whilst the loss of the northern tree belt is regrettable, there is no other suitable or achievable vehicular access point to enable Great Parks Phase 2 to come forward. This negative landscape impact must be weighed against any benefits of the proposal in the planning balance.

Design of the proposal

The proposed food store would be sited in the south-western corner of the site. The food store covers a rectangular footprint of around 70 metres by 33 metres. It is proposed to a commercial single-storey scale under a gently sloping mono-pitched roof. The elevations are finished in red brick panels with blue/grey brick piers and plinth. The supermarket will have 4 metre high glazing along the eastern elevation to provide natural light and modernise the visual appearance of the store, it will also wrap around a small portion of the northern elevation to provide a customer entrance lobby. The two smaller units (each 87 square metres internal footprint) are located in the north-eastern corner of the site and will be a single-storey building. The elevations are finished in red brick panels with blue/grey brick to plinth and piers. The smaller units will be finished in cladded panels close to the roof and including the roof. The glazing is floor to ceiling on the southern, eastern and western elevations. It should be noted that the appearance of the food store and two smaller units have been revised due to Officer concerns on the initial scheme which originally proposed elevations consisting of white cladding panels, with grey rendered plinth beneath and silver eaves guttering and rainwater pipes.

The Masterplan envisages a landscaped courtyard to provide public car parking to support the retail units and a welcoming arrival space. It considers a new landscaped edge along the eastern boundary to support a pedestrian access route to the local centre stepping up the slope, as well as a natural stone feature wall to define the local centre boundary at the corner of the new junction to create a positive sense of arrival at the site gateway. The material details of the boundary treatments have not been given, a planning condition shall be employed to secure such details that provide the vision of the Masterplan. The proposal includes a stepped pedestrian access on the north-eastern corner instead of the eastern boundary given the level lands.

Car parking is set to the north and east of the supermarket building. The car park would provide 137 spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. The car park includes tree planting, is surrounding by wildflower meadows and screened by either native mix hedge planting or shrub/herbaceous planting.

Land levels

Generally, the site falls quite steeply from north to south from 115 – 108.3m AOD (6.7m change) and it also falls west to east by approximately 7m. The applicant proposes the car park level at range between 115.2 – 116m AOD with the finished

floor level (FFL) for the food store building at 116.00m AOD and the two smaller units at 115.80m AOD. The FFL is such as the applicant proposes to cut and fill the site to gain a relatively level site, the applicant's justification for the cut and fill exercise is due to *the placement of the access road, which is required to ensure acceptable gradients in highways term*. This cut and fill exercise will require the implementation of retaining walls around sections of the north, west and southern areas of the site. The tallest part of the proposed food store would be 123.02m AOD, as it is mono-pitch and gently sloping this decreases to 120.9m AOD to the south of the building.

The applicant has failed to provide precise details of the proposed retaining walls, particularly in relation to the boundary vegetation to the south-east of the site, where some of the greatest level changes are proposed. The applicant provided measurements between the tree protection fencing and the proposed retaining wall which indicated a distance range between 3.35 – 4.26m, and also provided distances from the tree root protection area (RPA) to the proposed wall in a range between 4.7 – 6.4m, which would be the absolute maximum working area in order to not encroach into the rooting environment. Therefore, a planning condition is recommended to secure the finer details of the retaining walls prior to the commencement of development.

Proposed landscaping

The proposal includes a landscaping plan which includes a proposed wildflower meadow to the east of the site fronting Kings Ash Road and an element of such to the north. The proposal also include shade tolerant meadow to the western and southern boundaries, as well as within the scheme including tree, hedge and shrub planting. Given Jacobs comments, the applicant has provided a more robust landscaping scheme that includes additional tree planting to mitigate the removal of G1.1 and G1.2. Jacobs have also provided a recommendation regarding the grading from the back of the footpath to the car parking area that through earth banking, it could result in a smaller retaining wall which would be less visually intrusive. The applicant has provided a plan showing the proposed boundary treatments, yet fails to provide a definitive height or materials of the proposed retaining walls, therefore a planning condition would be required to secure such details prior to the commencement of development.

All matters considered, the proposal is considered acceptable in design terms as it is in broad accordance with the aspirations of Policies DE1 and DE4 of the Local Plan, Policy PNP1(c) of the Neighbourhood Plan, and the advice contained within the NPPF, for the reasons stated above.

3. Residential Amenity Impact

Policy DE3 of the Local Plan states that development should provide a good level of amenity for future occupiers and should not unduly impact upon the amenity of

neighbouring properties and surrounding uses. Policy PNP1(c) of the Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal protect residential amenity in terms of noise, air, or light pollution. In terms of amenity the NPPF seeks to promote well-designed places that amongst other things achieve a high standard of amenity for existing and future users.

The proposed building is positioned some distance from existing residential dwellings, such as those in Foxhole (Spruce Way/Kerria Close/Abelia Close/Smallcombe Road) separated by Kings Ash Road and those in Great Parks Phase 1 (Fishacre Close/Heligan Drive/Trentham Close) separated by Luscombe Lane. The proposals are not considered to result in any serious detriment to residential amenity for the existing residential development by reason of loss of light, loss of privacy or by reason of being unduly dominant or overbearing due to the separating distances involved which are a minimum of approximately 60 metres to the north, 26 metres to the east and 80 metres to the south from the perimeter of the red line boundary.

In terms of noise, the proposals have the potential to impact upon residential amenity but more in terms of the future development of Great Parks Phase 2 rather than existing development. The Council's Senior Environmental Health Officer has been consulted on the application and has reviewed the acoustic consultant's report. The report finds that the effect of the predicted noise from plant and deliveries is acceptable in terms of impact on the nearest existing noise sensitive dwellings and therefore the Officer does not object on these grounds. However, the report does not consider the noise impact of this development on future homes likely to be constructed immediately adjacent to this proposed site. In the recently revised scheme, the applicant has included an acoustic fence to be incorporated on top of the retaining wall running alongside the delivery bay and around the plant area, to minimise the noise impact on any future housing on the neighbouring land.

Objectors have raised concerns regarding noise, pollution, littering, anti-social behaviour and access to natural light. It is considered that through the recommended planning conditions for a Construction Management Plan, delivery hours, hours of use, and control of any additional extraction/ventilation/plant to serve the development, will ensure that the proposal does not result in detrimental harm to adjacent neighbours in terms of noise pollution. In terms of littering, the proposed layout includes a bin near the two smaller units, a planning condition is recommended that notwithstanding the plans additional bins are sited within the site to alleviate any potential littering. Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy DE3 of the Local Plan

Policy PNP1(g) of the Neighbourhood Plan states that all developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to "Designing out Crime" guidance. In terms of anti-social behaviour, the Police Designing-Out Crime Officer has been consulted on the

scheme and has advised that a planning condition should be employed to secure a scheme of measures on designing out crime, fear of crime, antisocial behaviour and conflict. Subject to the aforementioned planning condition, the proposal is considered to accord with Policy PNP1(g) of the Neighbourhood Plan.

Given its siting, scale, and design, it is considered that subject to conditions as set out above, the proposal would not result in any unacceptable harm to the amenities of neighbours by loss of privacy, outlook or access to natural light and therefore the proposal is considered to be acceptable given the context.

4. Highways, Movement and Parking

The NPPF guides that in assessing specific applications for development it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Paragraph 110).

The Development Plan, largely through Policies TA1, TA2 and TA3 of the Local Plan, outlines similar policies goals as the NPPF, but also guides on parking levels and sustainable transport facilities within new development. Policy PNP1(h) of the Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability: i) electric vehicle charging points; ii) comprehensive direct networks for walking, cycling and public transport within and beyond the development. The policy goes on to state that where on-site roads are planned schemes will be encouraged to include: i) car free areas within the development; ii) shared space streets and squares; iii) on-street secure cycle storage; and iv) dedicated space for car club transport.

Policy PNP22 of the Neighbourhood Plan states to support Active Travel in the Western Corridor area, where appropriate, viable and achievable development proposals should provide or contribute to the provision of the following:

- a) the provision of safe, continuous, separated cycling and pedestrian pathways to all schools and employment sites in the area;
- b) the delivery of a Western Area park and-ride facility connecting with central Paignton to accord with policy PNP6 criteria g);
- c) the establishment of a strategic, continuous, separate cycling and pedestrian pathway across open countryside to Totnes working with local landowners, Devon County Council and other involved authorities;

- d) establishing a well connected green infrastructure network on both sides and middle of the Western corridor and the routes it serves by additional street tree planting and new public seating at selected points;
- e) space for the secure parking of at least two community car club cars in all major developments and one in each residential local centre; and
- f) other necessary highway and associated infrastructure.

The proposed access into the site will be created off the western edge of Kings Ash Road. A new fourth arm will be introduced to the Kings Ash Road / Spruce Way signalised junction which will provide a new estate road for a wider development area. This fourth arm forms a spine road for the wider estate of the Great Parks Phase 2 and the site itself is accessed via the priority junction onto this spine road. The revised scheme has amended the red line boundary of the site to incorporate an extension of the proposed spine road to extend into the western land currently also owned by the applicant. Car parking is set to the north and east of the food store building. The car park would provide 137 spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. The proposal does not include at least two community car club car spaces as there is not a community car club in the area.

Access and Highway Safety

The proposal includes alterations to the A380 / Spruce Way and the creation of (the first section of) a new spine road. This road will serve both the proposed development and the Great Parks Phase 2. A new fourth arm will also be introduced to the Kings Ash Road / Spruce Way signalised junction which will provide a new estate road for a wider development area. The applicant has provided 2.4m x 43m visibility splays in both the primary and secondary directions. It is noted that the left-hand visibility splay is currently within an indicative road layout which will be finalised when future development comes forward. The proposed access detail is considered acceptable by the Highway Authority.

In terms of highway network capacity based upon the junction capacity assessments, it can be determined that the resultant trip generation due to the proposed development will not result in an adverse impact upon the operation of the local highway network. The applicant has demonstrated that the Proposed Access would operate within capacity and with a reasonable capacity buffer to be able to accommodate GPP2 traffic (as far as the GPP2 traffic flows can be assumed at this stage), reducing the risk of the junction needing reconfiguration to accommodate GPP2 traffic. The Highway Authority do not raise any objection or concern regarding the network capacity and possible impact upon the nearby light-controlled junction to the south with Cotehele Drive and Kings Ash Road.

The proposed site is located on the western bound of Paignton, approximately 2km from the town centre. The development is located within close proximity, 180m, from bus stops located on Spruce Way with footways, street lighting and a pedestrian

crossing available for the duration of the pedestrian movement between the two. The bus stops on Spruce Way service the 109 Paignton Circular bus route. Additional bus stops are located approximately 400m east of the site on Ramshill Road. The proposal will include the existing pedestrian crossing on the Spruce Way approach to the Kings Ash Road / Spruce Way signalised junction is to be formalised with the introduction of push buttons and pedestrian signals. This is considered acceptable by the Local Highway Authority and will enable safe passage for pedestrians crossing over Spruce Way. This will be secured through a planning condition and a Section 106 agreement.

The applicant has also proposed to install tactile paving and pedestrian crossing infrastructure at the junction to the east of the site access with Kings Ash Road. This is considered acceptable as it promotes continuous and safe pedestrian movement to/from the site and origin and destination locations within the wider area.

Initially, the Local Planning Authority sought for the applicant to provide a footway on the western side of Kings Ash Road between Luscombe Lane and Cotehele Drive. However, upon further investigation it is not possible for the applicant to provide this connectivity as there is insufficient highway land to provide an adoptable footway. An alternative arrangement for those on foot coming from Great Parks Phase 1 would be to utilise the signal-controlled crossing from Cotehele Drive across Kings Ash Road and then returning onto the western side of Kings Ash Road at the signalised junction with Spruce Way. Further connectivity will also be provided in the future once additional development within Great Parks Phase 2 comes forward, a Section 106 agreement is recommended to secure future connectivity in particular relating to the western side of the site.

A Section 38 Agreement will be required for the Local Highway Authority to adopt the proposed spine road that forms part of this application and this should be secured within a Section 106 Agreement. The spine road shall be built to an adoptable standard in accordance with the Torbay Highways Design Guide. The Local Highway Authority are also seeking to ensure that the proposed spine road would not restrict access to the highway for any third parties (thereby creating a “ransom strip”) through the Section 38 Agreement process.

In terms of internal movement within the site layout the proposal is considered acceptable in terms of commercial servicing and in terms of the environment it presents to users of the various elements within the site. The applicant has demonstrated that a HGV is able to manoeuvre within the site.

Based on the information submitted the Highway Authority offers no objection to the development proposals in terms of access, servicing and broad highway capacity.

Parking and sustainable travel

The detailed layout presents parking facilities. The Lidl and the two smaller retail units will have a combined 137 parking spaces, including 2 electric vehicle charging spaces, 9 parent and child spaces and 6 disabled spaces. In terms of general parking the split between the provision for the food store and the two smaller units is unclear as it appears arranged as an open car park. In terms of assessment of the proposed parking the level of parking for the supermarket is below the guidance contained within the Local Plan, which would for a convenience store above the threshold of 1,000 square metres of gross floorspace would seek generally 1 space per every 14 square metres of gross floorspace, therefore indicating that 168 spaces should be delivered.

Previous information submitted by the applicant in relation to TRICS car parking demand profiles identified that the car parking previously proposed for the development provided more than sufficient capacity for the trip generation and parking demand associated with the site. It is therefore considered that the new proposed car parking provision which was originally 145 now 137 is acceptable and does not present a risk of overspill parking on the local highway network. To conclude the parking provision is considered acceptable, however planning conditions are recommended to secure the parking provision and the delivery of electric charging points including further future delivery, in accordance with the policy aspiration that all new development should, where viable, include provision for electric charging points.

Regarding cycle parking 26 cycle spaces (10 for staff and 12 for customers) at the food store, with an additional 4 spaces provided for the two smaller units. Policy guidance contained within the Local Plan outlines that for non-domestic uses 1 space per every 2 employees should be delivered. The Local Highway Authority consider this provision to be acceptable. It is recommended that a planning condition requiring the delivery of the cycle spaces takes place prior to the first use is secured.

Highways conclusion

All matters considered, subject to the planning conditions recommended at the end of the committee report, the proposals are considered in broad accordance with Policies TA1, TA2 and TA3 of the Local Plan, Policy PNP1(h) of the Neighbourhood Plan and the advice contained within the NPPF.

5. Ecology, Biodiversity and Trees

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy SS8, particularly criterion 1, of the Local Plan states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built-up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy PNP1(c) of the Neighbourhood Plan states that development proposals should

where possible and appropriate to the scale and size of the proposal safeguard biodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites. Policy PNP20 of the Neighbourhood Plan states that completion of development proposals in the Great Parks area will be supported in accordance with the Masterplan produced in 2013, subject to the required further habitat safeguards being achieved to ensure no likely significant effects on protected species in the area. Paragraph 180 of the NPPF states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. The anticipated Environment Bill will make it a statutory requirement to provide a 10% net gain in biodiversity.

The site is on the edge of the South Hams Special Area of Conservation (SAC) for the Greater Horseshoe Bat (GHB) Sustenance Zone for Berry Head to Sharkham Point SSSI/SAC (A GHB maternity and hibernation roost 8.5km southwest of the site) and is in the SAC GHB Landscape Connectivity Zone. The site falls within the Cirl Bunting 2km consultation zone. The proposal would involve the removal of the dense scrub present within the redline boundary and removal of approximately 100 metres of the northern hedgebank. However, the north-western woodland and southern boundary hedgebanks within the wider survey area will be retained (although ecological functionality of these habitats will be lost as part of the wider Great Parks Masterplan development).

Following the guidance of the South Hams SAC (DCC et al, 2019), this application could potentially have a likely significant effect on GHB foraging and commuting habitat within a Sustenance Zone and cannot be screened out from requiring a Habitats Regulations Assessment. The proposal will lead to the complete loss of 1.8ha of GHB foraging habitat within a South Hams SAC sustenance zone, and this mitigation will need to be provided offsite.

The application is supported by ecological assessments, including a mitigation strategy for the GHB and biodiversity net gain measures and the information has been reviewed by Devon County Council's Ecology Officer.

The proposals have the potential to lead to a direct loss of commuting and foraging habitat and indirect impact by increased artificial illuminance. Habitats onsite have been confirmed through survey to support numbers of commuting and foraging Greater Horseshoe bats. Greater Horseshoe Bats were recorded on the both the northern and southern site boundaries. Analysis of the data obtained from the remote detector surveys identified a total of 49 greater horseshoe bat contacts from both detectors over the 42 nights the detectors were deployed.

Construction of the scheme will result in the loss of 1.54 hectares of scrub and grass verge habitat utilised by low numbers of foraging greater horseshoe bats throughout the full survey season, and the removal of up to 100m of the northern hedgebank (also utilised by foraging GHBs). Development will lead to the functional loss of all onsite habitats and offsite habitat creation will be required. All habitats within the redline boundary except for the retained sections of the northern and southern hedgerow, have been removed from the site in 2020. Therefore, offsite habitat establishment and functionality will not be possible in advance of anticipated impacts on GHBs arising from this development. This scheme will likely cause loss, damage or disturbance GHB foraging and commuting habitat. Using the South Hams SAC HRA Guidance document (DCC et al. 2019), there may be a Likely Significant Effect on the South Hams SAC in the absence of mitigation. This has triggered the need for a Habitats Regulations Assessment (HRA). A HRA has been undertaken in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). This has been updated in consultation with Natural England, a final version has been sent to them for their final approval. Natural England has been consulted throughout and it is expected that Natural England will confirm their agreement to the final form of the HRA. Members will be updated at the meeting. The recommendation is subject to Natural England agreeing that, subject to the agreed on-site and off-site mitigation measures being secured by condition and S106, the proposed development will not have an adverse effect on the integrity of the South Hams SAC.

In terms of biodiversity, the proposed works will result in the loss of low quality habitats of value to foraging badgers, bats, birds and reptiles. The north-western extent of this site has been identified as an area of higher ecological value which will need to be retained and buffered post-development.

In terms of ciril buntings, surveys which were undertaken in the summer of 2019, did not record any activity and therefore it is deemed that there are no impacts on the species with regards to the proposed development. In terms of other bird species, it is anticipated that nesting birds will be present and hence vegetation and building removal should be duly managed therefore a planning condition is recommended to ensure that no vegetation clearance shall take place during bird nesting season unless advised in writing by a suitably qualified Ecologist. In addition, nesting facilities are recommended as a biodiversity net gain measure and recommended to be secured by planning condition.

Regarding reptiles, slow worms have been recorded onsite, due to some vegetation clearance having taken place without requiring planning permission. The translocation and habitat manipulation of the slow worms has already been carried out. The reptile exclusion fencing will be maintained on site until site works are complete. The supporting ecological assessment states that upon the completion of works a suitably qualified Ecologist will supervise the removal of the fencing and any reptiles identified will be translocated to the receptor site, which has the same function as the existing

site, comprising a mosaic of open areas, grassland, rank vegetation, scrub margins and hedge/woodland.

Regarding badgers, a range of badger activity was identified within the survey area, comprising a badger latrine on the western site boundary. Used badger tracks and signs of foraging were also identified on the northern side boundary. No setts were recorded within the survey area or hedge bank boundaries. Updated badger surveys with associated mitigation and compensation measures, should be undertaken prior the commencement of any site works, and this is recommended as a planning condition.

The site is located within a Devon Great Crested Newt Consultation Zone. There are no ponds located within the survey area and Ordnance Survey mapping indicates that there are no ponds within a 500m radius of the site, so it is deemed there is no impact upon the species. Additionally, dormice surveys were conducted onsite, no dormice were recorded onsite, and the species is deemed absent, this conclusion is deemed valid.

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

The application is supported by an Arboricultural Impact Assessment, a Tree Protection Plan and a Tree Constraints Plan. There are no tree preservation orders in force on the site. The Council's Senior Tree and Landscape Officer has reviewed the submitted information and considers that the Arboricultural Impact Assessment addresses the main arboricultural impacts of the proposals. The identification of the Ash and the likelihood of infection from Ash dieback is noted and agreed with. The Officer considers that the Arboricultural Impact Assessment accurately reflects the site conditions and the site tree stock.

The proposal involves the removal of approximately 145 metres of tree belt (Group G1.1 and G1.2) due to the siting of the proposed access road into the site from the A380. Jacobs have reviewed the information on behalf of the Council also and have stated that there is an obligation on Lidl's behalf to ensure the safe retention of the rooting environment during the construction works. The tree protection fencing within the Arboricultural Impact Assessment seems appropriate and the area beyond should be regarded as a construction exclusion zone. Jacobs have recommended to offset the partial loss of the northern boundary hedgerow, extending the proposed native hedgerow and tree line between the access road and the car park will partially mitigate

the 'gap' created but also reinstate a cohesive visual screen and robust tree line along the contours.

The proposal seeks to retain the southern boundary vegetation and protect it from the proposed works. Jacobs have recommended that a pre-commencement condition should be employed to request details of the southern boundary retaining wall and any earth banking proposed to ensure that the root protection area of the group (G3) are not affected, as well as topographical and tree survey information along the southern boundary of the site (with the consent from the adjacent landowner) to establish the exact location of the trees and ground levels to ensure the trees safe retention with regard to the proposals. Planning conditions are recommended to ensure compliance with the Arboricultural Impact Assessment and associated documents.

In terms of the proposed landscaping, such matters were covered in the design and visual impact section of this committee report. To remind Members, a planning condition is recommended for the applicant to provide alternative landscaping details to those shown on the approved plans to strengthen the landscaping character and value.

Subject to the recommended arboricultural conditions, the proposal is in-line with the aspirations of Policies NC1, SS8 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

The site sits in the Torbay Critical Drainage Area, as designated by the Environment Agency, but is not in an area of heightened flood risk, sitting in Flood Zone 1.

The application site is in flood zone 1, based on the information provided the Local Planning Authority are satisfied based on the assessment of the best available information for all sources of flooding for the site, that the site is at the lowest risk of flooding from any source. The site is at lowest risk of flooding from any source which is the test in paragraph 162 of the NPPF and therefore no flood sequential test is required.

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. Regarding national advice the NPPF guides that 'major' developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. Policy ER2 requires all development to seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby

surface water will firstly discharge to an adequate infiltration system, a main river or watercourse, a surface water sewer or highway drain or as a last resort a combined foul sewer where discharge is controlled to be at a greenfield discharge rate. Policy PNP1(i) of the Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The application is supported by a conceptual surface water drainage strategy. The site currently comprises greenfield land therefore it is anticipated that there is no formal drainage network within the site. It is anticipated that surface water generated within the site currently discharges into the ground with runoff forming once the ground is storage capacity of the ground is exceeded. Based on the topography of the site, runoff is likely to drain in an easterly direction. According to OS mapping, the nearest watercourse is an unnamed ordinary watercourse which is located approximately 320 m west of the site. This watercourse is shown to flow in a generally southerly direction before turning eastwards and eventually discharging into Tor Bay. No other watercourse are recorded within a 500 m radius of the site. Reference to SWW Asset Location Plans, included as Annex E, indicate the following sewers within the vicinity of the site:

- 2 no. combined sewers originating beneath Kings Ash Road approximately 75 m south of the site. The sewers are shown to trend in an easterly direction beneath Smallcombe Road;
- A surface water sewer is shown to originate to the south of no. 28. Kings Ash Road approximately 100 m south of the site. The sewer is shown to trend in a southerly direction beneath the grass verge adjacent to the road.
- Surface water sewers are shown to serve the residential neighbourhood to the south and east of the site.

The site is underlain by bedrock deposits from the Torbay Breccia Formation which is described as comprising interbedded layers of Breccia and Sandstone. Site specific infiltration testing was first undertaken by RPS in November 2020 with additional testing undertaking on 25th and 26th February 2021. The results of the infiltration testing exercise indicates that the strata beneath the site is considered to be a 'good infiltration media'. As such, it is proposed to discharge surface water run-off generated by the proposed development into the ground via infiltration.

The proposed drainage strategy proposes to convey surface water run-off generated by the proposed the proposed to underground geocellular storage crates that will provide storage for all events to and including the 1 in 100 year plus 40% climate change event prior to run-off infiltrating into the ground. Overall, it has been demonstrated that an appropriate surface water drainage strategy can be provided for the proposed development thus ensuring that the proposed development does not result in an increase in surface water run-off from the site.

The drainage strategy has been considered by the Torbay Development Agency Drainage Engineer who considers that providing the surface water drainage is constructed in accordance with the submitted drawings and hydraulic design, they have no objections on drainage grounds to planning permission being granted for this development. South West Water do not object to the proposal.

The proposals are, subject to a planning condition securing the drainage strategy, deemed in accordance with Policies ER1 and ER2 of the Local Plan, Policy PNP1(i) of the Neighbourhood 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

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

1. Conserve energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling;
2. Use energy efficiently within the fabric of the building;
3. Incorporate the use of decentralised heat, cooling and power systems; and
4. Use on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

Policy PNP1(e) of the Neighbourhood Plan states that new commercial development should aim to achieve where appropriate and subject to viability the highest standards of sustainable construction such as Passivhaus or EnerPHit. Policy PNP1(f) of the Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability:

- i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change;
- ii) the use of reclaimed materials and natural finishes;
- iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development;
- iv) on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area;

- v) connecting cycleways and footpaths where development involves new road infrastructure;

The supporting Statement states that the scheme will be designed to comply with the latest government guidance and the new Part L Building Regulations. In addition, various sustainable measures will be implemented. These include but are not limited to:

- Sustainable surface water drainage scheme.
- Solar panels installed on the roof.
- Electric Vehicle Charging spaces.
- Recycled materials in insulation and floor finishes.
- Use of water-based paints on steelwork.
- High efficiency LED lighting incorporated internally and externally.
- Lighting to be installed with movement detectors.
- Dual flush toilets.
- Sensor taps to reduce water consumption.
- Improved air leakage and enhanced U-Values where possible.
- Building management system-controlled lighting by Lux sensors.
- Environmental waste removal and management policies.
- Delivery noise reduction through quiet, manually operated bridging plates and dock shelter, used in conjunction with sloped loading ramp.

The applicant has stated that environmentally sustainable design solutions have been incorporated into various stages of the proposed development, affecting the internal design, external appearance and the foodstore's relationship with its context. Energy demand is reduced in the first instance through passive design and a consideration of efficient operational procedures ensures that the proposed foodstore's ongoing environmental impact is minimised.

The approach outlined is considered to present development that is in accordance with Policies SS14 and ES1 of the Local Plan and Policies PNP1(e) and PNP1(f) of the Neighbourhood Plan.

Policy W2 of the Local Plan states that development proposals which are likely to generate significant volumes of waste must include a Waste Audit and Five Year Waste Management Plan setting out how waste generation will be reduced during the construction and operation of the development. This will include provision of appropriate on-site facilities for re-use, recycling and collection of waste.

In regard to waste reduction aspirations a Waste Audit and Management should be secured by planning condition to cover the prevention and to minimise, re-use and recycle waste, minimise the use of raw materials, minimise the pollution potential of unavoidable waste, seek alternative modes of transport (to the use of roads) to move

waste (wherever possible), make provision for the storage and collection of waste, and dispose of unavoidable waste in an environmentally acceptable manner. These details respond to the policy guidance contained within Policy W2 of the Local Plan.

Sustainability

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

The Economic Role

Job creation is a driver of economic growth and there would be significant economic benefits from both the construction phase and operational phase. 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

A key social benefit of the proposed development is the delivery of job opportunities in the local area and provision of services for local residents in terms of access to fresh food and provision of a discounted food retailer in an area of deprivation, presenting dual benefits that weigh in favour of the development.

The proposal results in a loss of housing land, including a proportionate loss of affordable housing at a time when the Council has a serious shortfall of housing land. However, the development will open up adjoining land for housing development that has been stalled in delivery for decades so will aid housing delivery.

Overall, the social benefits weigh in favour of the development

The Environmental Role

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

In respect of the environmental element of sustainable development, the balance is negative in terms of the development. Impacts on biodiversity can be mitigated as set out in the report so having a neutral impact, however there is an adverse landscape impact due to loss of tree belt on the northern boundary which whilst mitigated by replacement planting will take time to establish.

Sustainability Conclusion

Having regard to the above assessment, weighing the positive impacts of the development against the marginally negative landscape impacts, the positive impacts weigh in favour of the development and 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 floorspace is CIL liable at £120 per sqm.

The total liability is circa £311,748.08 based on the development delivering 2,349 square metres of liable floorspace.

S106 Heads of Terms

Para 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The following are required to make the development acceptable in planning terms:

- Construction of the two smaller units to shell prior to the opening of the main foodstore and marketing the units for a minimum period of 24 months.
- Agreement to be set up between the applicant and Groundwork via Torbay Council; to deliver, manage and maintain an area of land to enhance biodiversity value in favour of Greater Horseshoe Bats as per the agreed and approved Mitigation Strategy for the Greater Horseshoe Bats. The S106 will secure the mitigation measures as set out in the Habitats Regulations Assessment.
- Delivery of the full length of road shown within the application site to adoptable standards and the requirement to enter into a S.38 agreement prior to the commencement of development and completion of such works prior to any occupation of the development, with no ransom strip to access land to the west.
- Undertaking to allow third parties the right to construct and use a vehicular and pedestrian access linking the development sites to the south and west to the Kings Ash Road through Lidl's land without ransom.
- To market the applicants adjoining land within the blue line for housing development only and for an agreed minimum time period.
- To secure a pedestrian access linking the site to the 'blue' land to the west.
- To ensure protection and buffer planting of the southern hedgebank at least until the off-site bat mitigation habitat is functional.
- Entering into a Section 278 agreement prior to the commencement of development to secure the provision of the new main junction and other highway and related works and any necessary traffic regulation order and require completion of the works prior to any occupation of the development.

EIA/HRA

EIA: The development has been screened. 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 subject to the planning conditions contained within this report and the completion of a Section 106 agreement, in accordance with advice received by Natural England and Devon County Council acting as the Council's Ecological Advisor.

Planning Balance

The planning assessment considers the policy and material considerations in detail.

The scheme would provide a discounted food retailer in area of economic deprivation providing access to fresh food. It will provide employment during construction and when operational. The proposal will also provide the necessary infrastructure to unlock Great Parks Phase 2 by delivering the fourth arm onto Kings Ash Road and, though legal obligation, rights to access allocated housing land to the west and south, land that has been allocated for decades without delivery. Whilst the proposal would result in a loss of housing land, it is considered that the proposal will be the driver at bringing the remainder of Great Park Phase 2 forward for housing development at a time when this Council is in considerable need of housing delivery. All other matters such as drainage, biodiversity impacts and landscape impacts can be satisfactorily addressed or mitigated.

In conclusion, it is considered that the planning balance weighs in favour of the proposal.

Conclusions and Reasons for Decision

The proposal does not fully accord with the Development Plan in so far as it does not wholly conform with Great Parks Masterplan, however the proposal is considered to be acceptable in principle for the reasons set out in this report and the benefits of this development significantly outweigh any harm or policy conflict. It is considered that the proposal accords with the development when taken as a whole

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

Officer Recommendation

Approval: Subject to;

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

Conclusion of a S106 agreement based on the "S106 Heads of Terms" set out above;

Final consultation response from Natural England confirming agreement to the Habitats Regulations Assessment;

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

Conditions

Retaining Walls

Prior to the commencement of any development except construction of the site access hereby approved, full details of all retaining walls, any underbuild, site levels including landscaped areas and finished floor levels in relation to the units, shall have been submitted to and approved in writing to the Local Planning Authority. The development thereafter shall be in accordance with the proposed details and levels as approved.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030. This pre-commencement condition is required to protect visual amenity.

Drainage

The development shall proceed in full accordance with the submitted and approved flood risk assessment and drainage plan and the drainage scheme shall be fully implemented prior to the occupation of the unit to which it relates. The drainage system shall then be maintained at all times thereafter to serve the development.

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

Construction Management Plan

No development shall take place until a site-specific Construction Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise and dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
 - 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Wheel washing facilities.
- Details of the location of construction compounds and storage areas for plant, machinery and materials.
- Details of parking for construction workers vehicles.

Development shall take place in accordance with the approved details.

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

Written Scheme of Investigation

The development shall proceed in accordance with the Written Scheme of Investigation prepared by RPS (JAC26858, dated 02 February 2021) and submitted in support of this planning application. 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 Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 205 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

Construction and Ecological Management Plan

No development (including ground works) or vegetation clearance works shall take place 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 CEMPs 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) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.

- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, 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 CEMPs 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 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

Landscape and Ecological Management Plan

No development (including ground works) or vegetation clearance works shall take place until a Landscape and Ecology Management Plan has 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.

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 guidance contained within the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

Vegetation Clearance

No vegetation clearance 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 and made available to the Local Planning Authority upon request.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan, and the advice contained within the NPPF.

Repeat Badger Surveys

No development (including ground works) or vegetation clearance works shall take place until a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, has taken place and been submitted to and approved in writing by the local planning authority. The development shall proceed in full accordance with the approved detail.

Reason: To secure an acceptable form of development in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030, and the advice contained within the NPPF. This is required pre-commencement to ensure protected species are not unduly impacted.

Ecological Monitoring Strategy

No development (including ground works) or vegetation clearance works shall take place, unless an alternative timescale has been agreed in writing with the Local Planning Authority, until an Ecological Monitoring Strategy of the offsite mitigation land has been submitted to and approved in writing by the Local Planning Authority. This strategy will secure compliance monitoring of the mitigation measures on and around the site, and to provide early warning of the need to implement timely remedial action where mitigation measures are not functional. The Ecological Monitoring Strategy will be based upon best practice (including BS42020). The development shall proceed in full accordance with the approved strategy.

Reason: To secure an acceptable form of development in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030, and the advice contained within the NPPF.

Compliance HRA

The development hereby approved shall be carried out in strict accordance with the recommendations of the Habitats Regulations Assessment Report (plan reference 'XXXX' received 2nd February 2022).

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

Food Store PD Removal

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking the Order, and notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended), or any Order amending or revoking the Order the main food store unit hereby approved (the Lidl Supermarket) shall have a maximum net sales area of 1,410 square metres and shall at all times be used solely for the retail sale of food only except that no more than 20% of the net sales area may

be used for the sale of comparison goods, with no sub-division of the food store unit into more than one separate retail unit.

Reason: In order to secure an acceptable form of development in accordance with Policies TC1, TC2 and TC3 of the Torbay Local Plan 2012-2030.

Smaller Units PD Removal

Notwithstanding the provisions of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking the Order, and notwithstanding the provisions of the Town and Country Planning (Use Classes Order) 1987 (as amended), or any Order amending or revoking the Order the two ancillary Class E (a)(b)(c) units hereby approved shall at all times be used solely for uses falling within Use Classes E (a)(b)(c), and for no other purposes.

Reason: To secure an appropriate form of development that presents small-scale ancillary food sales operations to support the established retail offer within what is an out-of-centre location, in accordance with Policy TC3 of the Torbay Local Plan 2012-2030 and the NPPF.

Boundary Treatment/Hard Surfaces PD Removal

Notwithstanding the provisions of Part 2, Class A and Part 7, Classes B, C, D and E of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking the Order, no boundary treatments or hard surfaces, other than those shown on the plans hereby approved, shall be installed at any time unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and the living environment conditions in this locality in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

Landscape Scheme

Notwithstanding the plans hereby 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 in any phase. The soft landscaping of a phase shall be planted in the first planting season following the first occupation or 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, Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 and the advice contained within the NPPF.

Unsuspected Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason: For the protection of controlled waters, in accordance with Policy ER3 of the Torbay Local Plan 2012-2030.

Southern Tree Belt Underground Works

Prior to the commencement of development along the southern boundary of the site, details of any underground works including excavation shall be submitted and approved in writing by the Local Planning Authority. No works shall be carried out in the vicinity of the southern boundary of the site except in accordance with the approved details.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, and the NPPF. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Trees (Pre-Commencement)

Prior to the commencement of development, the following information should be submitted and approved in writing by the Local Planning Authority:

A detailed Arboricultural Impact Assessment, including (but not exclusive to) details of the southern retaining wall and any earth banking proposed to ensure the Root Protection Areas of the group G3 is not affected; sequence of site operations; pre-commencement site meeting for tree protection measures; initial sign of on tree

protections; monthly visits to ensure the Tree Protection Fencing is in place and fit for purpose; timing of fence removal; protection of Root Protection Areas during landscaping,

The development shall proceed in full accordance with the approved details.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, and the NPPF. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Tree Pit Details

The development shall proceed in accordance with the approved Tree Pit plan ('JSL3871-RPS-XX-EX-DR-L-9002 P01 (Tree Pit Details)' received 16th March 2021), unless otherwise submitted and approved in writing by the Local Planning Authority.

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

Highways Standards

Prior to the first use of the development, construction of the internal roads and footpaths within the internal layout shall be in accordance with the Torbay Highways Design Guide and in operation. Roads serving the development shall be completed to adoptable standards.

The design and specification for the internal access roads and the new main junction shall meet the requirements for access and servicing the development of the remainder of Great Parks Phase 2 Committed and Other Deliverable Development Sites as defined by Policy H1 of the Torbay Local Plan. The estate road shall extend and be constructed to the red line boundary of the application site to offer potential connection to the land edged blue on the approved site plan and the remainder of Great Parks Phase 2 and avoiding the creation of any ransom strip.

Reason: To ensure highway safety is not impaired and the need for comprehensive development, in accordance with Policies DE1, H1, TA1 and TA2 of the Torbay Local Plan 2012-2030.

Secured by Design

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 scheme shall include details of how designing out crime, fear of crime, antisocial behaviour and conflict have been considered for the scheme and where implemented. And shall include details of a monitored CCTV system and

confirmation that a clear passport to compliance document will be in place prior to installation to ensure that the system is fit for purpose. The approved measures shall be fully installed prior to the first use of the development and shall be retained and maintained for the lifetime of the development.

Reason: In the interests of crime prevention in accordance with Policies DE1 and SS11 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

Public Realm

Prior to the first use of the main foodstore (the Lidl Supermarket) hereby approved, details of the public realm area (north-east corner of the site) shall be submitted to and approved in writing by the Local Planning Authority. These details shall include dimensions and materials of the external surfaces and including street furniture. The public realm shall be installed as approved prior to the use of the main foodstore. The public realm shall thereafter be retained and maintained as a public area and shall not be used for any other purpose.

Reason: In the interests of design and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

Energy

The development shall proceed in accordance with the energy saving measures outlined within the submitted and approved Energy Statement (One Design Architects; January 2022). The approved measures shall be fully incorporated within the scheme prior to its first use.

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

Waste Audit and Management

No development (including demolition and ground works) or vegetation clearance works shall take place for any phase of the development until a Waste Audit and 5-year Waste Management Plan for that phase has 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 2012-2030. 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.

Lighting

Prior to the first use of the development a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The Strategy shall seek to minimise impacts on wildlife and ensure no light spill onto adjacent wildlife habitats, and shall 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 detail and no additional external or internal lighting shall be provided within the development at any time.

Reason: To secure an acceptable form of development in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy PNP1 of the Paignton Neighbourhood Plan and advice contained within the NPPF.

Parking provision

Prior to the first use of the supermarket hereby approved, the parking provision shown on the approved plans shall have been provided in full, including the provision of the demarked disabled and parent and child spaces. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

Delivery Access and Manoeuvring

Prior to the first use of the supermarket hereby approved, the delivery bay and manoeuvring area shown on the approved plans shall have been provided in full. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

Electric charging facilities

Prior to the occupation of the development hereby approved, the electric charging points shown on the approved plans shall be provided, and thereafter permanently retained for the life of the development. The agreed electrical charging points shall be thereafter maintained.

Reason: To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy PNP1(h) of the Paignton Neighbourhood Plan.

Cycle parking provision

Prior to the first occupation of the development hereby permitted, the bicycle storage shown on the approved plans shall be provided. Once provided, the agreed bicycle storage shall be retained and maintained for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy PNP1(h) of the Paignton Neighbourhood Plan.

Highway Agreement

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

Reason: To secure all necessary works to the public highway in order to ensure highway safety is maintained and network impacts are adequately managed, in accordance with Policies TA1 and TA2 of the Torbay Local Plan 2012-2030 and the advice contained within the NPPF.

Construction Traffic Management Plan

Prior to the commencement of development, a Construction Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The approved Construction Traffic Management Plan 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 local and highway amenity and residential amenity, and in accordance with Policies DE3 and TA2 of the Torbay Local Plan 2012-2030. This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

Car Park Management Plan

The development shall not be brought into use until a Car Parking Management Strategy has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail the intended means of preventing

overspill parking onto the highway; preventing access to the car park outside opening hours; and otherwise limiting the use of the car park. The agreed strategy shall be employed for the life of the development.

Reason: In the interests of local and highway amenity, and in accordance with Policies DE3 and TA3 of the Torbay Local Plan 2012-2030.

Delivery Times

No vehicular movements nor any loading or unloading of commercial vehicles shall take place on the site except between the hours of 07:00 and 23:00 on Monday to Saturday and 08:00 and 18:00 on Sundays and Bank or Public Holidays. There shall be no waiting of commercial vehicles servicing the development site on Kings Ash Road and the approved spur road at any time.

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

Travel Plan

Prior to the first occupation of the development a Travel Plan and Implementation Strategy with SMART targets to seek to meet minimum Policy requirements of 30% modal shift to foot, cycle and public transport, for all users, with appropriate monitoring, reporting and 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 fully implemented for 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.

Opening Hours

The opening hours of the food store (Use Class E(a)) (the Lidl Supermarket) hereby approved shall be limited to 0700hrs - 2200hrs Mondays through Saturdays, and 1000hrs - 1600hrs on Sundays and Bank Holidays.

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

Smaller Unit Opening Hours

The opening hours of the two smaller ancillary units (Use Class E(a)(b)(c)) hereby approved shall be limited to 0700hrs - 2200hrs on all days.

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

External Materials

Prior to the installation of the external materials hereby approved within each building and boundary treatment, a detailed materials schedule for that each building or boundary treatment, either physical or digital, shall be submitted to and approved in writing by the Local Planning Authority. Each building shall be externally finished in full accordance with the approved materials schedule for that building. For the avoidance of doubt this includes exterior cladding, roof materials, windows, doors, rainwater goods, fascias etc.

Reason: To secure an appropriate form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030 and the advice contained within the NPPF.

PD Removal (Non-domestic extensions, alterations)

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 any retail unit hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan.

Public Art

Prior to the first use of the foodstore hereby approved, details of the public art to be installed within the public realm area (north-east corner of the site) shall be submitted to and approved in writing by the Local Planning Authority. These details shall include dimensions and materials (and illumination if necessary). The public art shall be installed as approved prior to the use of the main retail store for retail purposes.

Reason: In the interests of design and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

Informative(s)

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

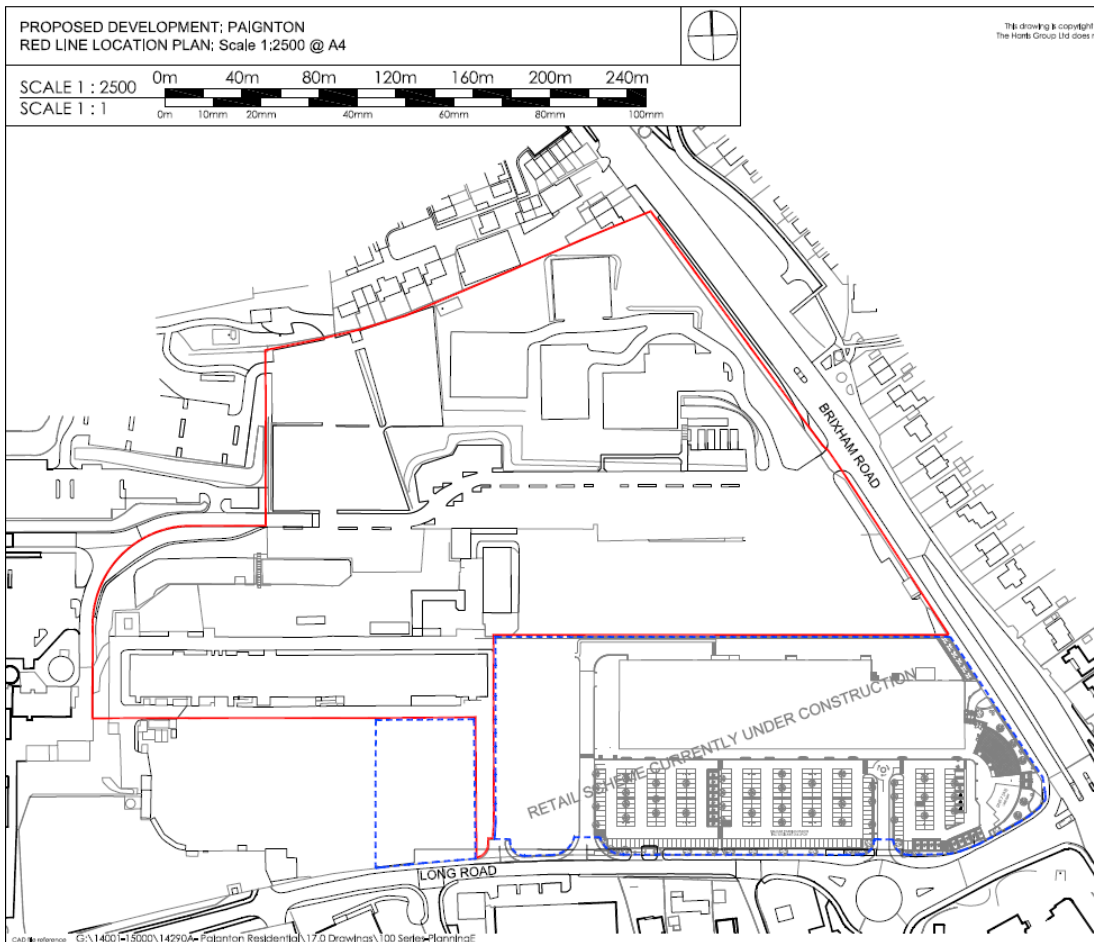
Relevant Policies

Development Plan Relevant Policies

C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development amenity
DE4 - Building heights
ER1 - Flood risk
ER2 - Water management
ES1 - Energy
SC1 - Healthy bay
SC3 - Education, skills and local labour
SC5 - Child poverty
SS3 - Presumption in favour of sustainable development
SS4 - The economy and employment
SS5 - Employment space
SS11 - Sustainable communities
SS14 - Low carbon development and climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
TC2 - Torbay retail hierarchy
TC3 - Retail development
W1 - Waste management facilities
W2 - Waste audit for major development and significant waste generating developments
NC1 - Biodiversity and geodiversity

PNP1 - Area wide
PNP1(b) - Local green space
PNP1(c) - Design principles
PNP1(e) - Commercial development
PNP1(f) - Towards a sustainable low carbon energy efficient economy
PNP1(g) - Designing out crime
PNP1(h) - Sustainable transport
PNP1(i) - Surface water
PNP2 - Town centre
PNP20 - Great Parks
PNP22 - Western corridor

Application Site Address	Land Off Brixham Road - Former Nortel Site Paignton, TQ4 7BL
Proposal	Reserved Matters on application P/2014/0947 (Outline mixed use application for retail, business and residential uses with all matters reserved except for access (as revised by S73 applications P/2016/1372, P/2017/0123, P/2017/0571 and P/2017/1041)). Reserved Matters sought: Appearance, Landscaping, Layout & Scale for up to 255 Residential Dwellings (As revised)
Application Number	P/2019/0278
Applicant	Devonshire Park Limited
Agent	Montagu Evans
Date Application Valid	21.03.2019
Decision Due Date	20.06.2019
Extension of Time Date	17.01.2022
Recommendation	<p>Approval: Subject to;</p> <p>The resolution of identified highway matters to be delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The conditions as outlined, 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 Development.
Planning Case Officer	Scott Jones



Site Details

The application relates to the northern part of the former Nortel/Bookham site that is now largely referred to as Devonshire Park. The site sits to the west of Brixham Road and to the north of Long Road and the recently built retail park, which was developed on the southern part of the wider Nortel/Bookham site. The site is on the western outskirts of Paignton, close to widely known residential areas of Roselands, White Rock and Yannons Farm.

The site is approximately 7 hectares in size and is approximately 450m (east-to-west) by 280m (north-to-south). There is a gentle gradient through the site that drops north to south. The northern high point abuts residential and commercial uses. To the east there is a frontage to Brixham Road that runs approximately 280m. To the south the site abuts the recently built retail park approved as part of the mixed-use scheme that granted outline consent for residential use on the land subject to this reserved matters application. The border of this site abuts the rear of the retail park which is defined by a curved acoustic fence that sits on top of a large retaining wall to the service area that is set on a lower plateau. The western part of the southern border abuts undeveloped land. To the west the site abuts the campus of South Devon College.

The site is largely cleared with pockets of trees/scrub and occasional border vegetation. Towards the southeast corner there are retained low-level buildings.

In terms of designations the site is within Flood Zone 1 and a Critical Drainage Area and the site is part a Future Growth Area as designated within the Torbay Local Plan. There is a Tree Preservation Order placed over a few trees within the northern part of Devonshire Park. The site is also located within the greater horseshoe bat sustenance zone associated with the South Hams SAC at Berry Head.

Description of Development

This is a reserved matters application that is seeking approval for the layout, scale, appearance and landscaping for 254 dwellings following the grant of outline consent under application reference P/2014/0947 (as amended) for up to 255 dwellings.

The scheme proposes 201 dwellings arranged across a mix of detached, semi-detached and short terraces, and the provision of 53 apartments arranged in 2 blocks, one block of 12 units and one block of 41 units.

The layout is principally one of three streets running east-west across the hillside served off the central access point. There is a central greenspace at the heart of the site that provides public space, and this bleeds diagonally to the north-east and south-west.

The scale of the dwellings range from single storey to four storey dwellings, and the apartment blocks are three storeys and four storeys in height.

In terms of appearance the concept outlined in the submitted design and access statement is a high-quality development with a modern feel, encompassing playful roof pitches and a complimentary palette of timbers, zinc and renders, which seeks to deliver a specific identity and dynamic character. There are 11 distinct house types proposed through the development.

As touched on the landscape concept had a central public area that runs diagonally to offer a green spine through the site. The central road has street planting to emphasise its scale and to soften the public realm. Away from the main street planting is evident through the site in terms of private gardens and pockets of frontage planting. In terms of the main public border to Brixham Road the proposal is a for a Devon Bank with regular tree planting along the border.

Vehicular access was approved in detail at outline stage with a single junction off Brixham Road and an emergency access off Long Road and does not form part of this reserved matters consideration.

As established within the outline consent the development will deliver 4% affordable housing units, in accordance with the viability provisions of the S106 legal agreement.

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 Adopted Paignton Neighbourhood Plan (PNP)

Material Considerations

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

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

Relevant Planning History

P/2017/1041:

Variation of condition on application P/2014/0947 (as amended by S73 applications P/2016/1372, P/2017/0123 and P/2017/0571): (Devonshire Park Housing/Commercial Project). Variation of condition 33 - Maximum retail floor space. Amendment sought: Increase total gross floor area of class A3 floorspace from 139sqm to 167sqm. Approved 15.12.2017.

P/2017/0571:

Variation of condition on planning application P/2014/0947/MOA; As amended by S73 applications P/2016/1372 and P/2017/0123): Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping. (Condition 32: Restrictive Goods Condition). Approved 14.12.2017.

P/2017/0123:

Variation of condition P1 of P/2014/0947 (as amended) (Outline Application with all matters reserved except access) - to vary Condition (P1) detailed approved plans to vary the access arrangement off Long Road. Approved 18.10.17.

P/2016/1372:

Variation of condition P1, 34 and 35 of P/2014/0947 (Outline Application with all matters reserved except access) - to vary Condition (P1) - Approved Plans to omit reference to the Masterplan, Condition (34) to vary the minimum unit size restriction for 1 unit and Condition (35) to clarify the restriction of concessions. Approved 18.10.2017.

P/2014/0947:

Outline Application with all matters reserved except access, for demolition of the remaining buildings on the site and redevelopment for mixed use purposes comprising up to 255 Class C3 dwellings, up to 5,574sqm of B1 and /or B8 business and/or warehousing uses, up to 8,501sqm Class A1 (bulky goods) retail with up to 515sqm garden centre, and up to 139sqm of A3 cafe /restaurant uses, along with related site access, access roads and paths, parking, servicing, open space and landscaping. Approved 22.03.2016.

P/2017/0493 and P/2014/0494:

Two options for groundworks, including the demolition of remaining structures, grubbing out of trees, foundations and floor slabs, remediating contamination and earth works to re-profile the site. Approved 22.09.2017.

Summary of Representations

3 letters citing objections have been received. The summary of concerns is as follows;

- Concerned re relationship with properties adjacent to the northeast corner of the site.
- Concern re overdevelopment and local area impact.
- Less need for housing / numbers should be reduced from that approved.
- Should have larger houses with bigger gardens and more green space.
- Lack of parking.
- Impact on local doctors, dentists, schools and shops.

Summary of Consultation Responses

Paignton Neighbourhood Forum

No comments.

Highway Authority (Swisco/WSP) Latest comments January (2021):

Based upon the information submitted at the time of writing the highway authority are unable to provide a recommendation for the development proposals. The applicant will be required to submit the following information:

- Update the Highway Adoption Plan to illustrate connection from the site with the emergency service access on Long Road and the pedestrian link to Brixham Road;
- The applicant will be required to re-submit the swept path analysis to illustrate safe access and egress to the disabled parking bay;
- The applicant will be required to amend the site plan to ensure that a turning head is provided for refuse vehicles or an alternative refuse management plan is developed as it is unacceptable for refuse vehicles to reverse onto the main carriageway in the interest of highway safety;
- The applicant will be required to undertake a vehicle tracking exercise to illustrate safe access and egress to/from car parking bays located on driveways within the site layout, with particular reference to house type 12;
- The applicant will be required to amend the dimension of car parking spaces, located at the back of footways and on driveways, to ensure they have a required minimum length of 6m and a width of 3.2m;
- The applicant will be required to update the site layout to show only one pair of tactile paving at the pedestrian crossing;
- The applicant will be required to provide visibility splays for the main junctions within the site;
- The applicant will be required to submit a vehicle tracking drawing to illustrate an emergency service vehicle safely access all areas of the site;
- The applicant will be required to provide details relating to the provision of electric vehicle charging points within the site, as per standards contained within Appendix F of the Torbay Local Plan (2012 – 2030).

Police Designing Out Crime Officer

There appears to be no reference to crime prevention, security, designing out crime or the principles of Secured By Design (SBD), as such there is no way of knowing if these have been considered or where implemented in the proposed scheme.

Drainage Engineer (Torbay Development Agency)

No objection on drainage grounds to the approval of the reserved matters application. However it is highlighted that the surface water drainage design for this development has still to be submitted and approved as required under Planning Condition 8.

Green Infrastructure Manager (Swisco) - Latest comments January (2021):

Brixham road

On the boundary plan the Brixham Road boundary is currently shown as being a brick wall with hedge planting. The landscape proposal along Brixham road is for a Devonshire bank to be created extending along the length of the garden areas for the dwellings. The landscape plans identify trees between the Devon bank and the wall defining the backs of the gardens.

The species selection is that of conical or fastigiate form trees that will produce a uniform linear feature along Brixham Road with gaps between the crowns that would not provide sufficient screening to the properties until the long term owing to the fastigiate or conical growth habit. The surrounding tree stock is one of agricultural hedges and large canopy trees to the south along Brixham Road and pasture field boundaries to the north west. We would be looking to increase the density of trees in this area whereby there is a continuous understory of vegetation (a hedge) that will afford screening to the site with larger canopy trees to be included and allowed to extend from the hedge below and form fully grown trees. The hedge could be located on the created Devonshire bank.

Slatted fencing

The expectation of high quality robust borders from a planting perspective has not been achieved. There appears to be a general continuation of typical landscape planting theme with no additional bolster planting shown or annotated to ensure that the borders are meeting the required expectation. Where there is planting close to the slatted fence this will provide cover and screen however where the fencing is exposed with only grass shown then the fence will be more visually prominent.

Internal landscape planting

An overview of the masterplan identifies areas that are lacking in tree cover, which can help create a sense of space and place within the development whilst bringing the additional benefits of having trees, in what will be a relatively dense development.

In general the open spaces have been planted but many of the roads do show as having inadequate tree cover, and there is an opportunity to provide further tree and shrub planting to soften the development. Where there is tree planting in hard landscapes we would also need to see engineered tree pits are in place to ensure sufficient soil volume is available for the roots of the tree to exploit.

In essence the current planting does not sufficiently bolster the boundary edges and is not robust enough in terms of its screening with opportunity to increase the internal planting, to not only provide a visual softening of the development but bring the additional benefits of trees into the area.

Torbay Council Community Safety Officer

To avoid possible nuisance complaints, request a condition to seek a detailed scheme of noise insulation measures for the properties at the north of the site adjacent to the industrial unit in Western Business Park (off Brixham Rd). This is to safeguard the amenities of the residential occupiers and the details are needed prior to the start of work so that measures can be incorporated into the build.

Waste and Recycling Officer (Swisco)

The dwellings appear to have sufficient waste facilities designed in. The smaller apartment block should have capacity for 4 large (1100litre) communal bins.

South West Water

No comment.

Environment Agency

No objection.

Planning Officer Assessment

1. The Principle of Development,
2. Design and Visual Impact,

3. Landscaping,
4. Residential Amenity,
5. Highways, Movement and Parking,
6. Ecology
7. Flood Risk
8. Low Carbon Development
9. Affordable Housing
10. Housing Supply

1. The Principle of Development

Outline consent was granted for up to 255 dwellings pursuant to planning permission P/2014/0947 (with minor material amendments approved via subsequent Section 73 applications). This established the principle of 255 dwellings served off a detailed access arrangement off Brixham Road. This Reserved Matters application is principally to consider the Layout, Scale, Appearance and Landscaping as the broad principle has been established.

In terms of relevant matters the proposed development accords with the outline consent in terms of delivering the residential element on the northern part of the site and being served off the approved access point, together with delivering a secondary emergency link to Long Road. The total number of dwellings also accords with the maximum number with 254 units proposed through a mixture of flats and houses.

Subject to ensuring that the proposal provides an acceptable form of development, in terms of securing a suitably designed scheme, a good quality living environment and one that retains adequate amenity levels for adjacent occupiers, whilst also according with the conditions attached to the outline consent, the principle is considered acceptable.

In terms of determination it is relevant to appreciate that the Council cannot currently demonstrate a 3 or 5 year housing land supply and for decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are considered to be out of date. The policies therefore should be afforded limited weight within the current decision-making process. The 'tilted balance' in favour of sustainable housing development therefore applies but this broad position is however subject to wider policy considerations that are relevant to the development proposal as touched on above, which will be discussed in the forthcoming sections of this assessment.

2. Design and Visual Impact (Layout, Scale and Appearance)

The key consideration is the desire to provide an attractive environment that responds to the surrounding built form, that is safe and secure, with legible routes and good permeability, which integrates well with the surrounding area, including external and internal green infrastructure.

In terms of the layout the proposed housing is largely focused off three parallel roads that run across the hillside from east to west, with some small cul-de-sacs pocketed around the peripheries of the development on the western fringes. This basic layout largely accords with what was envisaged at outline stage and is considered acceptable when considering the site constraints, where there is presently limited benefit for connectivity across the north and western boundaries, where commercial, housing and educational uses sit as barriers, and where the rising ground levels from south to north also present a considerable constraint in terms of running continuous streets south-to-north off the three main streets. In this context the presence of abrupt turning heads or cul-de-sac ends is hence considered acceptable where the development, in the main, provides a well-reasoned layout with active frontages to streets and public areas.

In terms of other elements of the basic layout there is a central diagonal belt of public greenspace that provides both play opportunities and some general relief to the wider built form at the heart of the development. The location and scale of this landscaped public space is considered acceptable, and it provides a convenient hub for play and outdoor recreational use whilst also connecting most parts of the site.

In terms of broad legibility, the development is largely singular in character with a relatively even density and form throughout. There are some elements of the design that heighten the role of the central street, which is welcomed, with a wider avenue form which includes street planting that isn't present elsewhere. This presents some prestige to the street and reinforces its role as a central link between the entrance and the central greenspace, and beyond to the linking route for pedestrians and cyclists' southwards to Long Road.

In terms of permeability the road-based footpath network and the pedestrian links connecting areas to the central green space are considered to provide adequate permeability within the development. In terms of external connections there is pedestrian access/egress eastwards at the location of the main entry point into the site and there is a pedestrian/cycle route southwards that connects to Long Road. Considering the border constraints these routes are considered adequate for the development. It is noted that pedestrian routes in the northeast and southeast corners of the site have been removed since the initial submission and although these routes did provide some benefit in terms of convenience and connectivity, their omission is not considered to be demonstrably harmful as the central access to Brixham Road is nearby.

In terms of seeking to deliver a safe and secure residential environment, which is informed by activity within the streets and natural surveillance of public areas and routes, the development is considered suitably resolved. The housing arrangement provides natural surveillance to all streets and the central greenspace will be naturally overlooked by a number of properties. In addition, following officer discussions side facing windows have been added to certain plots to improve the surveillance to short sections of footpaths.

In terms of appearance the development proposes a somewhat progressive and innovative built environment that moves away from the more widely established character of render/brick 2-3 storey dwellings under uniform tiled roofs. The building form is quite varied with a dozen house types, which present some clear variety in the built form whilst also offering some pleasant homogeneity. The built form is expressed as offering 'playful pitches' and 'roof expressions' that focuses on 'providing quality internal spaces, dynamic streetscape and identity to Devonshire Park'. The palette of materials is principally timber and flat metal panel cladding, under zinc standing seam cladded roofs. Render is present but it is used sparingly across the development as an emphasising material more than anything. Although the development steps away from the more widely established character the appearance and materials of the buildings are considered to be high quality and somewhat innovative and is supported as a detailed concept.

In terms of scale the dwellings present a varied build height to the public realm with house types offering a mixture of 1, 2, 3 and 4 storeys to the street. The prevailing residential build height within the area is 2-storeys with pockets of 3-storeys within the more recent developments to the north (Yannons Farm) and further south (White Rock). The development hence presents areas that offer a building height above the prevailing height, which presents some tension with Policy DE4 (Building Heights) of the Torbay Local Plan, which informs that new development should be constructed at the prevailing height (the most commonly occurring height) unless there are sound urban design or socio-economic benefits to justify deviation from this approach. The proposal also deviates from the suggested outline proposal where the Design and Access Statement cited that all residential house types have a height of 9m to the ridge line. Scale was not fixed and hence there is some flexibility to consider the heights now proposed however the merit does need due consideration. In the context of the design,

which presents quite unique buildings finished in high quality materials, the proposed scale and height across the development is considered acceptable. A similar scale and height of buildings across the development in a more traditional form of residential buildings is unlikely to have presented such a successful scheme as it is principally the level of 'delight' offered by the form and materials that mitigates the scale, height and arrangement of buildings within a relatively dense layout, which has limited landscaping away from the central belt and principal avenue. In terms of the two apartment blocks these are proposed to deliver 4-storeys with a recessed upper floor. This deviates again to the outline detail that suggested 3-storeys, although the overall heights are relatively aligned being expected up to 12m in height and being proposed at 12.5m. The scale and heights are considered acceptable adjacent to such a wide avenue (Brixham Road) and where southwards there is a transition to larger commercial buildings at roadside. This is in the context of the quality of materials and elevational treatment.

As the quality of the scheme is paramount in terms of part justifying the scale and heights it is important that high quality finishes are secured. It is suggested that a sample materials palette is secured prior to installation of materials to ensure that the well-presented concept is delivered as shown. The subtle colourings of timber shown, which add some variety, should also be secured within this palette in terms of a detailed timber cladding schedule so this is also secured.

In respect of materials the materials specification for each dwelling clearly references the façade material (where applicable) as timber. Under this there is a secondary note that cites "Treated/Artificial horizontal timber cladding with secret fixings". It is further noted that the Design and Access Statement cites that the materials utilise treated/artificial timber, and that utilising a render system in small quantities is to contrast the metal and timber to provide a soft edge to the materials. The Statement furthers that from the outset a complimentary palette of timbers, zinc and renders were established as key drivers for the spirit of the site. In light of the schemes presentation it is clear that the material finish suggested, and thus expected, is timber, whether that is natural or artificial in terms of a composite or treated timber alternative, as may be approved. As such non-timber cladding, such as fibre-cement products (commonly cedral or similar) is not considered to accord with the materials schedule proposed and supported.

Linked matters of landscaping, which influence the developments design and visual impact are addressed within the following section.

All matters considered regarding design and visual impact the proposals are considered to be consistent with Policies DE1 and DE4 of the Torbay Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF in terms of securing good design.

3. Landscaping

The proposals largely accord with the landscape strategy shown at outline stage by providing a central swathe of greenspace at the heart of the development and a landscaped edge to the Brixham Road.

As a holistic judgement in terms of tree provision and linked landscaping the proposal is considered positive when reflecting on the previous context, where there was little landscaping present during its previous use and very little landscaping or ecological value in its current state. There are however other issues to consider which are touched on below.

In terms of the central belt this is considered to present a very pleasant and well considered landscaping feature. Street tree planting to the east of the landscaped area along the central avenue is also supported.

In terms of the landscaping around the Brixham Road this needs to be carefully considered as it fronts a key arterial route, and the development to the north of the entrance (excluding the flat complex) presents the rear of several residential properties. At present the planting proposals along the Brixham Road offer a grassed Devon Bank adjacent to the footpath with intermittent tree planting between the bank and the rear plot boundaries, which are defined by a brick wall of undetermined height. As the adjacent arterial route and public footpath sits higher than the adjacent proposed plots the rear of buildings (including gardens) will be visually apparent unless they are sufficiently screened. As it stands the landscape proposals along this border are will not provide sufficient screening to the properties. One suggestion to tackle the drop in levels is to deliver a hedge on top of the proposed Devon bank and increase the density of trees in the area with larger canopy trees to be included and allowed to extend from the hedge below and form fully grown trees. It is suggested that any approval is subject to a condition for further landscaping proposals for this area to address these concerns.

In term of the landscaping proposals within the streets away from the central avenue there is very little street planting of any scale and there are only occasional pockets where tall shrubs are proposed within private spaces forward of the front building lines. As a result there is hence quite extensive areas that offer very little softening of the built form, with small shrub or hedge planting present that will in the main be largely obscured behind rendered boundary walls. Although the form of the development is somewhat softer than more traditional built forms and thus offers some inherent mitigation on this concern, the development is still considered unduly hard and lacks adequate landscaping within various streets. This matter has not been resolved despite quite extensive officer/applicant discussions. In the context it is recommended that a condition is attached to any grant of planning permission to deliver a more robust planting proposal through the development to adequately soften the harsher elements of a residential environment, these being the buildings, roads and cars.

The progression of improvements to the landscape offer cited above would be consistent with the National 'build beautiful' agenda outlined within Section 12 of the NPPF, and would be consistent with Para 131, which states that trees make an important contribution to the character and quality of urban environments, which can also help mitigate and adapt to climate change, and that planning policies and decisions should ensure that new streets are tree-lined.

Subject to conditions to address concerns regarding the Brixham Road Frontage and streets within the development that are absent of trees or specimen shrubs, the landscape proposals are considered acceptable and considered compliant with Policies DE1 and C4 of the Torbay Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

4. Residential Amenity

Future Occupiers

In terms of assessing the quality of the future residential environment it is important to consider the size and quality of the internal living spaces, the levels of outlook and natural lighting afforded key habitable rooms, levels of privacy, along with the quality of outdoor spaces and access to waste, cycle and car parking facilities, which are all integral elements for household developments. The aspiration is to secure good level of amenity for future residents.

The development proposes a variety of house types, some of which are split level with under-builds that in the main deliver single-aspect access and integral car parking where the levels rise.

The layout presents open aspects to both the front and rear of all properties, which provides natural lighting and good outlooks to all key habitable spaces. Internal privacy is duly offered with back-to-back distances between dwellings largely set at around 20/21m. There will be

some natural overlooking of gardens, but this is commonplace within suburban living and it is deemed that there are no unacceptable relationships. In terms of noise considerations there is an acoustic fence in place to the southern border and the accompanying sound assessment proposes fencing to the southwest corner and north border adjacent to the commercial uses, and heightened sound dampening to dwellings within three identified zones. These zones are buildings adjacent to the Brixham Road, dwellings adjacent to the service yard on the northern border, and dwellings in the southwest corner near to plant associated with the college site. Subject to securing the mitigation by planning condition the internal living environments will be acceptable in terms of noise nuisance. In terms of the internal living spaces all houses and flats exceed the national internal living spaces standards that are engrained within the Development Plan (Policy DE3).

In terms of ancillary elements waste storage, cycle parking and car parking are engrained within all residential plots and apartment blocks. Waste storage is either proposed within decreet enclosures to the front of or to the rear of each dwelling. Cycle parking is delivered again to the front or rear within designated sports, or within garages. Within the apartment blocks the waste and cycle storage areas are separate and offered within safe and secure undercroft zones. Parking for dwellings is provided in a mix of driveways and/or integral or attached garages. The ratio is 2 per dwelling which accords with the level expected within the Development Plan. Apartment blocks are supported by communal parking courts. Block 1 (12 units) has 11 spaces with one accessible space with an annex provision across the road that hold 4 spaces (including 1 accessible space). This provision, combined, is considered adequate and a planning condition is suggested to secure these spaces for the apartment block. Block 2 (41 units) is supported by 50 spaces which includes 4 accessible spaces which is considered adequate in terms of occupier and visitor spaces. It is recommended that some certainty is secured in terms of visitor provision and electric charging provision, which is proposed through the imposition of planning conditions as outlined in the schedule of conditions. The delivery and retention of private/assigned parking spaces generally is secured by a planning condition attached to the outline consent.

All these matters combined present good quality living spaces throughout the development. Subject to conditions as suggested the proposed residential environment is considered acceptable for all future users and would accord with Policy DE3 in the Torbay Local Plan and advice contained within the NPPF regarding creating good quality living environments.

The proposals accord with condition 5 of the outline consent which required the reserved matters to include noise mitigation measures in accordance with the Noise Impact Assessment (24 Acoustics, September 2014) submitted with the application. The condition also secured the implementation of the resultant mitigation approved.

Adjacent Occupiers

The commercial and educational uses to the south and west would not be impacted by the development due to the form of use and the relationship of the built forms.

To the north there are residential uses which require due consideration. Amendments have been secured towards the western part of this border to deliver enhanced separation distances with properties within the 'Bovis' development across this section of the northern border. Toward the eastern edge of the site occupancy of the adjacent semi-detached property would not be unduly impacted due to the distances and orientation of the proposed dwellings in this corner of the plot. Public concern is noted regarding the relationship to adjacent properties in this corner however the evolved relationships are considered acceptable.

The development, for the reasons above, is considered to provide an acceptable relationship that protects the adjacent occupiers' amenity in line with policy DE3 of the Torbay Local Plan

and in accordance with advice on delivering good living environments for all users, as guided within the NPPF.

5. Highways, Movement and Parking

Vehicular Access

The access into the site was approved at outlines stage and hence is not considered as part of this reserved matters application.

Other access points

The outline proposal established the principle of a pedestrian/cycle route linking the residential element of the mixed-use scheme to Long Road south of the site, an access which was also suggested to provide an emergency access for the emergency services to address safety concerns regarding the scale of development being served off one access point.

The reserved matters include a link to Long Road with a 3m wide pedestrian route within a 9m wide landscaped corridor. Greater clarity on securing this as a dual pedestrian/cycle and route for emergency vehicles is considered necessary. The Highway Authority has requested vehicles tracking detail through the site illustrating that emergency vehicles can safely access all areas of the site. It is suggested that this should include detail illustrating that the link to Long Road works as an emergency access route for the emergency services. It is suggested that the swept path detail is secured prior to determination and the delivery is secured by planning condition prior to the occupation of the 101st dwelling. In addition to securing an accessible route it is necessary to secure the route for such purposes and also to secure detail on any restrictive barrier that permits cycle and pedestrian use only but permits emergency access if needed. It is considered that the provision and continued availability, and the detail of any barrier system, can be secured by planning conditions.

The outline principles also showed pedestrian movement out of the site eastwards onto the footpath adjacent to Brixham Road. The suggested pedestrian links onto Brixham Road have been removed and the access and egress along the Brixham Road relies on the central vehicular and pedestrian access point. The loss of these dedicated pedestrian links is not considered substantially harmful as routes eastwards are still relatively direct from all parts of the site.

Internal Road Network

In terms of vehicular movement within the site the layout largely accords with that suggested at outline stage, which provides most of the road layout in an east-west direction to limit the design and structural implications of traversing the rising levels south-north.

The proposed network is considered acceptable with widths according with the expected design standards and pedestrian footpaths provided throughout the scheme. Tracking detail has been submitted which shows the ability of refuse vehicles accessing all areas of the site. Notwithstanding this the Highway Authority has requested tracking detail that shows that emergency vehicles can access all areas of the site. It is recommended that acceptable detail is secured prior to the formal determination of the application to secure any necessary minor amendments. The detail has been requested.

Regarding other demonstrable matters raised by the Highway Authority it has been requested that visibility splay information for the main junctions within the site is submitted to illustrate compliance with Torbay Design Standards. As a highway safety issue it is reasonable that this detail is secured prior to the formal determination of the application to secure any necessary minor amendments. The detail has been requested.

As a final demonstrable matter the Highway Authority has requested that the applicant amends

the site plan to ensure that a turning head is provided for refuse vehicles, or an alternative refuse management plan is developed, in the northerly spur in the southwestern corner of the development. The spur serves 5 houses. The concern is that it is unacceptable for refuse vehicles to reverse onto the main carriageway, in the interest of highway safety. The submitted adoption plan suggests a partial adoption of the spur with an expectation that it itself works as a turning head for refuse vehicles. This is considered a reasonable suggestion. Notwithstanding this judgment there is a concern on the potential inability for cars or small vans using the longer spurs within the development where there is no purposely designed turning designed in to the scheme. Cars that aren't using the private drives, i.e. visitors or smaller delivery vehicles, are likely to be far more frequent than refuse vehicles and also they will be driving into the spurs in a forward gear. In light of this concern it is recommended that detail of a highway design to aid turning of smaller vehicles is secured prior to formal determination of the application for the identified spur and the southwards spur in the northwest corner of the site. The matter has been raised with the agent and a response requested.

The proposals are, subject to the satisfactory resolution of the details suggested above, considered to present an acceptable layout in terms of movement, in accordance with Policies DE1 and TA1 of the Torbay Local Plan.

Car and Cycle Parking

Car parking is proposed at a level of 2 spaces per dwelling provided through a mix of driveway and garage spaces. All parking spaces are considered adequately arranged and sized in order to provide workable spaces and ensure unobstructed pedestrian access to all dwellings. The provision and retention of the parking spaces for such purposes should be conditioned to ensure that these facilities are provided and maintained.

Car parking for the apartment blocks provides a policy compliant level of 1:1 parking with visitor parking and disabled parking also provided within each blocks arrangement. The spaces are suitably sized and arranged. Certainty on the provision of the disabled and visitor parking should be secured by condition.

Cycle parking is provided within all dwellings and is detailed within both apartment blocks to acceptable levels, in secure undercroft facilities. Condition 06 of the outline consent secures the provision of the approved cycle parking facilities. Visitor cycle parking has not been detailed and each apartment block should provide a suitable level of secure cycle parking within legible and naturally overlooked spaces. Detail should be sought and secured by a planning condition. Public cycle parking facilities are provided within the central greenspace near to the southern border. These facilities are welcomed and their provision should be secured by a planning condition.

All matters considered, subject to the conditions outlined above, the cycle facilities are considered policy compliant and suitable for approval in-line with Policy TA3 of the Torbay Local Plan and policy PNP1(h) of the Paignton Neighbourhood Plan.

6. Ecology:

The ecological context was duly considered when the outline consent was granted.

A Habitat Regulations Assessment was undertaken to assess its likely significant effect on the South Hams SAC, in accordance with the Habitats Regulations, and the conclusion was that the development would not have a likely significant effect (alone or in-combination with other developments) on the SAC. The original consent, and the amending permissions, was subject to a condition to secure a detailed lighting strategy for the site based on the measures contained in the submitted Ecology and Landscape Report. The condition also secured

implementation and continuing compliance. Reserved matters applications will not normally need to re-consider HRA and as the proposed development principally accords with the form and layout of development previously presented it is not considered necessary to carry out a further HRA.

In terms of broader ecological matters the outline consent is subject to conditions that manage the ecological constraints, secure mitigation, and secure ongoing management. With conditions attached via outline stage the proposal requires no further ecological consideration.

As part of the scheme of mitigation the reserved matters proposals include 7 bat boxes and 7 bird nesting boxes strategically located through the development.

The previous outlines conditions ensure the development accords with policy NC1 of the Torbay Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan.

7. Flood Risk

Flood risk was duly considered in detail at outline stage with an approved outline strategy and a conditional requirement for further detail being submitted.

The Council's Drainage Engineer has confirmed that there is no objection but an expectation that further detail is submitted prior to commencement to accord with Condition 8 previously attached. South West Water do not object.

The proposal, due to the condition attached via the consenting outline permission, is considered acceptable on flood risk and surface water drainage grounds, in accordance with policies ER1 and ER2 of the Torbay Local Plan and policy PNP1(i) of the Paignton Neighbourhood Plan.

8. Low Carbon Development

The proposal for consideration relates to layout, scale, appearance and landscaping. It is noted that the outline consent, as revised, does not require the reserved matters to include details relating to low carbon development. The matter is hence not relevant to this application.

9. Affordable Housing

Affordable housing provision was considered and secured through the outline consent through the accompanying S106 legal agreement.

The provisions of the legal agreement reflected the context of the site in terms of it being a brownfield site and a contaminated site and secured no less than 4% affordable provision on site. This equates to 11 units on a scheme of 254 units. The legal agreement secures provision for the Council's Affordable Housing Manager to agree the location and the mix that accords with the policy expectation outlined in the Council's Planning Obligations and Affordable Housing SPD. The requirement is to secure the location and mix prior to each phase of development.

As the matter is secured through the outline consent the level and location is not relevant to this reserved matters application.

10. Housing Supply

The Council cannot currently demonstrate a 3- or 5-year housing land supply, as sought by Government. The five-year supply position represents a significant shortfall and must be

treated as an important material consideration weighing in favour of the proposal.

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

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Sustainability

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

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. The development would see the use of an empty site that has an outline consent for housing. Once the development is occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

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

The site has not been used for some time and the provision of housing would provide an appropriate use and offer units within a sustainable location. On balance, the social impacts of the development weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered especially relevant to the proposed development are impacts on ecology and biodiversity, contamination and drainage. These matters have been considered in the outline consent and the environmental benefits identified are deemed positive in the case of biodiversity net gain, addressing contamination, and mitigating flood impacts. There is an environmental benefit to providing 254 units within a sustainable location where dependency on car use could be limited.

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.

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

Not applicable to this development.

S106

Not Applicable to this reserved matters for layout, scale, appearance and landscaping. The outline consent is subject to a S106 legal agreement.

EIA/HRA

EIA: Considered at outline stage, which concluded that due to the scale, nature and location the development it would not have significant effects on the environment and therefore was not considered to be EIA development. Considering these reserved matters aside the outline proposals it is not apparent that the project would likely have significant effects on the environment and hence no further formal screening is considered necessary.

HRA: Considered at outline stage, which concluded that due to the scale, nature and location the development was not considered to have a likely significant effect on European Sites. Reserved matters applications will not normally need to re-consider HRA and as the proposed development principally accords with the form and layout of development previously presented it is not considered necessary to carry out a further HRA.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide

housing would produce a significantly positive impact overall and help with the supply of much needed housing.

Conclusions and Reasons for Decision

As a general position the proposal is positive and presents a high-quality and somewhat transformational residential scheme that will deliver a substantial number of houses. The built form and central public amenity space are well resolved and the internal residential environments will provide a good standard of living.

There is some concern on the quality of the landscaping to the Brixham Road and the level of planting within several streetscenes, where planting proposals omit trees or specimen shrubs that would grow to a height that offers local visual value. There is also some further consideration required of the use of timber fences to public borders around the central green space. These matters can be addressed by planning condition.

There are some minor highway matters and the recommendation is subject to the resolution of concerns on the lack of turning heads on two of the cul-de-sacs and the lack of detail on the visibility around the main junctions.

Subject to resolving the minor highway matters the proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations for the reasons stated within this report.

Officer Recommendation

Approval: Subject to;

The resolution of identified highway matters to be delegated to the Divisional Director of Planning, Housing and Climate Emergency.

The conditions as outlined, 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

Materials Schedule

Prior to the installation of the external materials hereby approved within each building a detailed materials schedule for that building or building type, either physical or (if agreed with the local planning authority) digital shall be submitted to and approved in writing by the Local Planning Authority. Each building shall be externally finished in full accordance with the approved materials schedule for that building and the material form shall be retained as such at all times thereafter.

Reason: To secure an appropriate form of development in accordance with Policies SS11, DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

Detailed Design

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

Detailed drawings of all proposed windows, doors, sills, balcony enclosures, fascia's, eaves, rainwater goods and meter boxes, and section / reveal detail to a scale of between 1:1 and 1:10 and means of opening where applicable.

The development shall proceed in full accordance with the approved detail.

Reasons: In order to protect visual amenity in accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF.

Emergency Access Provision

Prior to the occupation of the 101st dwelling, unless an alternative phasing plan is submitted and approved pursuant to this condition, a dual pedestrian/cycleway that also provides an emergency access route (to a minimum width of 3m), linking the development to Long Road, (as shown on the plans hereby approved) shall be implemented in full and made available for use. The route shall be built in accordance with the Torbay Highways Design Guide for new developments in operation at the time of construction and shall incorporate the measures approved under the next condition "Emergency Access Management".

The public route for pedestrian and cyclists, and emergency access, shall be retained solely for use as a pedestrian/cycle way and emergency access and managed and maintained at all times thereafter to serve the development.

Reason: To secure an acceptable form of development and in the interests of safety, in accordance with Policies SS11, TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030, Policies PNP1(c) and PNP1(h) of the Paignton Neighbourhood Plan and the NPPF.

Emergency Access Management

Prior to the provision of the pedestrian/cycle and emergency access to Long Road the means of managing access at either end of the route shall be submitted to and approved in writing by the Local Planning Authority. The details will show how access will be provided for pedestrians and cyclists and restricted for motor vehicles except at times of emergency and the emergency access arrangements submitted should be agreed by the relevant emergency services. The approved details shall be implemented in full prior to the first public use of the route and shall be retained, managed and maintained for the lifetime of the development.

Reason: To secure an acceptable form of development and in the interests of safety, in accordance with Policies SS11, TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Connectivity

Prior to the occupation of the 200th dwelling, notwithstanding the layout and landscaping plans hereby approved on land north of the turning head and visitor parking in the north west corner of the site, plans and details of the phasing of the works shall be submitted to and approved in writing by the Local Planning Authority for the delivery of a pedestrian/cycle connection (a sustainable movement link) that extends either of the proposed pavements that flank the two visitor car parking spaces, to the edge of the site.

The area shall be landscaped in accordance with the plans hereby approved until the sustainable movement link has been delivered, within the phased time period approved by the Local Planning Authority, and the land shall not be used for any other propose. The link shall be built in accordance with the Torbay Highway Design Guide in operation at the time of the development and once provided it shall be maintained as a public route at all times thereafter.

Reason: In the interests of connectivity and to secure long-term promotion of sustainable local travel modes, in accordance with Policies SS11, DE1, TA1 and TA2 of the Torbay Local Plan 2012-2030, Policies PNP1(c) and PNP1(h) of the Paignton Neighbourhood Plan and the NPPF.

Permitted Development Rights

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to F, and Part 2;

- i. No enlargements, improvements or other alterations shall take place to dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume,
- ii. No additional means of hard surfacing shall be provided forward of the principal building line of each dwelling hereby approved, and
- iii. No alternative means of enclosures shall be erected.

The development shall accord with the above unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF, having regard to the particular design and layout of the dwellings.

Means of Enclosures and Retaining Walls

Prior to their installation within the development the following shall be submitted to and approved in writing by the Local Planning Authority;

- i. The type of brick, colour and height of the boundary wall facing Brixham Road (as coloured orange on the approved boundary details plan),
- ii. The colour and height of all rendered boundary walls enclosing dwelling plots (as coloured blue on the approved boundary details plan),
- iii. The finish, colour and height of all public rendered walls (as coloured blue on the approved boundary details plan), including details of planting or other mitigation to secure a visually acceptable form of development,
- iv. The type of brick, colour, and height of all dividing brick walls (as coloured pink on the approved boundary details plan),
- v. The form and height of all slatted timber fences dividing private plots (as coloured red on the approved boundary details plan),
- vi. Notwithstanding the approved boundary plan, details of a suitably robust alternative boundary treatment to fencing (coloured red on the approved boundary plan) to the side and rear of plots facing on to the central public greenspace, including the accessways to the northwest and east, shall be submitted, unless demonstrated that the current fencing proposal is suitable as a public border. The detail shall include form, colour and height.

The development shall proceed in accordance with the approved detail and all boundary treatment shall be always retained as such thereafter.

Reason: To secure an appropriate form of development in accordance with Policies SS11 and DE1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

Visitor Car Parking

Prior to the first occupation of each apartment block plans identifying the assigned visitor spaces shall be submitted to and approved in writing by the Local Planning Authority, which shall include the form of demarcation. The approved visitor spaces shall be demarcated and made available for use prior to the buildings occupation and shall be retained and marked out for such purposes at all times thereafter.

Reason: To secure an acceptable form of development and ensure communal buildings provide adequate parking for visitors to the site, in accordance with Policies SS11, DE1 and TA3 of the Torbay Local Plan 2012-2030., Policy PNP1(d) of the Paignton Neighbourhood Plan and the NPPF.

Visitor Cycle Parking

Prior to the first occupation of each apartment block plans identifying the form and location of secure visitor cycle parking shall be submitted to and approved in writing by the Local Planning Authority, which

shall include the form of demarcation. The approved facilities shall be provided and made available for use prior to the buildings occupation and retained at all times thereafter.

Reason: To secure an acceptable form of development and to ensure adequate facilities for visitors, in accordance with Policies SS11, DE1 and TA3 of the Torbay Local Plan 2012-2030, Policy PNP1(d) of the Paignton Neighbourhood Plan and the NPPF.

Public Cycle Parking Provided

Prior to the first use of the central greenspace the public cycle parking facilities, as detailed on the plans hereby approved, shall be implemented and made available for use. The facilities shall be retained at all times thereafter.

Reason: To secure an acceptable form of development, in accordance with Policies SS11, DE1 of the Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Paignton Neighbourhood Plan.

Highway Standards

Construction of the internal roads and footpaths within the development shall be in accordance with the Torbay Highways Design Guide for new developments in operation at the time of construction. Roads serving each phase of development shall be completed to adoptable standards prior to the first use of each phase and made available for public use and always maintained as such thereafter.

Reason: To secure an acceptable residential environment and to ensure highway safety is not impaired, in accordance with Policies SS11, TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Adoptable Streets

No development relating to the creation of the roads shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption have been submitted to and approved in writing by the local planning authority. The development shall, thereafter, be constructed in accordance with the approved details, unless otherwise agreed in writing with the local planning authority.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies SS11, DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

Informative: The applicant is advised to obtain a technical approval for all estate street details from the local highway authority prior to the submission of such approved details to the local planning authority.

Management and Maintenance of Estate Roads

No works shall be carried out for the formation or construction of any road unless the local planning authority has approved a Road Maintenance Plan for that road including the arrangements for either adoption by the highway authority or the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the road and refuse collection throughout the lifetime of the development.

Where it is proposed that the estate roads shall be privately maintained no works shall be carried out above ground level until a Private Road Management Scheme has been submitted to and approved in writing by the local planning authority and which shall provide for;

- (a) Setting up a company or other entity to be responsible for the on-going management and maintenance of the road and refuse collection (the "Management Body").
- (b) How the company and the future management and maintenance of the road and refuse collection is to be financed including initial capital investment with subsequent funding.
- (c) The rights for and obligations on the Management Company to manage and maintain the road and collect refuse
- (d) Arrangements for the management and collection of refuse and waste from the dwellings.
- (e) A road management and maintenance and refuse collection schedule.

- (f) How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.
- (g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.

The development shall be carried out in accordance with the Road Maintenance Plan and the Private Road Access Scheme which shall thereafter be fully complied with and implemented.

No dwelling shall be occupied unless it connects directly to a road (including a footway and carriageway) which is:

- (a) Adopted by the highway authority as a highway maintainable at the public expense or
- (b) Subject to an agreement with the highway authority under section 38 of the Highways Act 1980 for the adoption of the road; or
- (c) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense shall be permanently maintained to an adoptable standard and retained and made available for public use or the lifetime of the development

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies SS11, DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

Tree Pit Design

Prior to the commencement of development the following documents and information should be submitted and approved in writing by the Local Planning Authority for that phase:

- 1) Detailed Arboricultural Method Statements, including (but not exclusive to) sequence of site operations, pre-commencement site meeting for tree protection measures, initial sign off on tree protections, monthly visits to ensure the Tree Protection Fencing is in place and fit for purpose, timing of fence removal, protection of Root Protection Areas during landscaping,
- 2) Details of underground structured planting pits to provide sufficient soil volume for the trees and specimen shrubs within highways and car parking areas.

The development shall proceed in full accordance with the approved details.

Reason: In the interests of amenity, design and ecology, in accordance with Policies SS11, NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, the NPPF. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Landscaping Amendments

Notwithstanding the landscape and other relevant plans submitted and/or approved, prior to the first occupation or use of the development hereby permitted the following shall be submitted to and approved in writing by the Local Planning Authority.

- i. A revised landscaping proposal for the Brixham Road boundary to the north of the vehicular access and to the rear of the residential plots, which principally seeks to provide enhanced screening of the rear of the buildings and gardens, and also provides a substantial tree-lined avenue to Brixham Road, and;
- ii. A revised landscape proposal for the front of private plots or within the highway that addresses concerns on the lack of streetscene landscaping, which enhances the presence of trees or specimen shrubs and secures adequate softening of the built form, including public retaining walls.

The landscaping approved pursuant to this condition shall be implemented in full and in conjunction with wider approved landscaping hereby approved,

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, or within a phased basis as agreed by the Local Planning Authority pursuant to this condition.

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, a Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF

Noise Measures

Prior to the occupation of any dwelling that has been identified within the submitted and approved Noise Impact Assessment (24Acoustics: Dated 21.06.2021) as requiring noise mitigation measures, the identified measures for the dwelling and plot shall be implemented in full. The measures shall then be retained in full throughout the lifetime of the development.

Reason: In the interests of occupier amenity and to retain a viable operating environment for established commercial activities, in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030

Informative(s)

01. The development shall accord with conditions cited within this decision notice and those attached to the outline consent. Please refer to the relevant decision notice for the relevant outline conditions, approved under planning permission P/2014/0947 (as revised by S73 applications P/2016/1372, P/2017/0123, P/2017/0571 and P/2017/1041), which include matters pertaining to construction management, ecological mitigation and management, lighting restrictions, provision of enhanced sound insulation measures within identified zones, secured by design measures, drainage design approval, cycle and waste provision in dwellings, construction, ecological and landscape management, and travel planning.
02. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS9 - Green Infrastructure
SS11 – Sustainable Communities
SS12 – Housing
SS13 – Five year housing land supply
SS14 - Low carbon development and climate change
H1 – Applications for new homes
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

PNP1 – Area wide

PNP1(c) – Design Principles

PNP1(d) – Residential Development

PNP1(g) – Designing out crime

PNP1(h) – Sustainable transport

Application Site Address	Torbay Hospital, Newton Road, Torquay. TQ2 7AA
Proposal	Construction of three storey medical assessment unit, with patient drop-off point, vehicle turning head and associated landscaping works.
Application Number	P/2021/0431
Applicant	Torbay And South Devon NHS Foundation Trust
Agent	
Date Application Valid	25.05.2021
Decision Due date	24.08.2021
Extension of Time Date	21.02.2022
Recommendation	<p>Approval: Subject to;</p> <p>The submission of a swept path analysis of an ambulance to ensure that safe access and egress can be achieved for the relocated bays;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency, and;</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to 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	Alexis Moran

Location Plan



Site Details

The application site is part of the larger Torbay Hospital site on the western outskirts of Torbay near to the residential areas of Shiphay and Edginswell.

The site is located to the north of the existing Level 2 Outpatients Entrance on what is currently a turning head accessed from the west and provides a patient drop-off area. The site is linked to surrounding car parks via pedestrian pavements. The immediate area includes one and two storey linked buildings that sit relatively close to much taller elements of the hospital.

The topography of this part of the site is such that it falls away by approximately 2.5m from east to west and approximately 1.2m from south to north. It forms part of the mid/late 20th century grouping of buildings, away from the original brick hospital buildings that date from around the 1920s, and the Grade 2 listed chapel.

In terms of designations the site is within a Critical Drainage Area.

Description of Development

The proposal is for a new Acute Medical Unit split over level 2 and 3 of the existing hospital, with plant provided at level 4. An Acute Medicine Unit (AMU) is defined as a dedicated facility within a hospital that acts as the focus for acute medical care for patients that have presented as medical emergencies to hospitals or who have developed an acute medical illness while in hospital. Ideally the AMU should be co-located with other acute and emergency services on an emergency floor.

The Acute Medicine Unit is essential to reduce overcrowding in the existing Emergency Department and to ensure that patients receive timely, high quality care in the right place. The current unit has 26 assessment spaces for patients, whereas the new facility will see this increase to 52 assessment spaces, provided in a modern and fit-for-purpose AMU which will be split over two levels.

The new building will co-locate the Emergency Department and AMU, both of which are adjacent to the existing diagnostics allowing better use of workforce and improved patient flow.

Currently the majority of the hospital's emergency admissions go through Emergency Department (ED), with some GP expected patients going directly to the Surgical Assessment unit. The Design and Access Statement advises that, by establishing a Medical Assessment Unit it is estimated that at least 80% of medical patients will be streamed away from ED, which will improve flow and reduce hospital admissions.

The development site is located to the front of the existing Level 2 Outpatients Entrance on what is currently a vehicular turning head and is to the north of the hospital complex. This leads to the loss of 12 disabled parking spaces which will be relocated to an existing car park slightly further to the north of the current location.

The proposed building comprises of a two-storey main building with a partial third floor providing plant enclosure. The proposed development would be approximately 27.6m long by 11.8m wide with a height of 13.7m at the highest point of the level 4 plant room.

The proposal is to be divided over 3 floors as below:

Level 2 - 762.4 sqm of new build with 212sqm of existing accommodation being demolished. Patients on this floor will be lower acuity and the area will have a mixture of trolleys and examination chairs in the patient cubicles.

Level 3 - 721.4 sqm of new build. Patients seen in Level 3 of the new AMU will be higher acuity patients and will need full care.

Level 4 - 243 sqm of new build. This level is made up of open and enclosed mechanical and electrical plant.

Due to the natural topography of the site, the building sits approximately 1 metre above existing group levels to the north, and 2.5 metres to the northwest.

The proposed finished floor level of level 2 (ground floor) and level 3 (first floor) are aligned with the existing internal finished floor levels to allow connectivity into the main hospital, meaning that the parapet level is broadly in line with the existing parapet level of the main hospital building. The plant room height is dictated by the air handling units and associated ductwork.

A separate 2 bay ambulance drop off zone is provided with its own dedicated entrance under a canopy giving access to a protected stair core and 2 no. trolley lifts that provide vertical circulation. Internally users will not be segregated by physical ability and the proposed building will incorporate features to provide access for people with a range of disabilities and uses the Disability Discrimination Act as a minimum standard in conjunction with HTM requirements. Access and egress will meet the DDA requirements.

Pedestrians will access the building from the existing established pedestrian routes. A new ramped access path and pedestrian foot way along the north elevation will provide DDA compliant access from a new 2 bay accessible drop off point to the main entrance.

The proposal is designed to accord with the modern approach taken to the new ICU building with the outer building being clad in aluminium. The roof top plant is hidden from view by the addition of a partial third storey which is also aluminium clad.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning 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

Pre-Application: None directly related to this application.

Applications: The hospital has been subject to numerous applications to extend and improve its facilities over the years.

Summary of Representations

None.

Summary of Consultation Responses

Torquay Neighbourhood Forum: No comment.

Strategic Planning: There is a strong presumption in favour of approval for proposals that seek to meet the area's healthcare needs, implicit in paragraphs 8 (b) and 91 of the NPPF. Policies

SS7 and SC1 (3) of the Torbay Local Plan would also support the proposal. Table 9 from Policy SDT3 states that the site should be used to maintain the healthcare needs of South Devon and supports proposals that make more effective use of the site.

Highway Authority: The applicant will be required to submit a swept path analysis of an ambulance to ensure that safe access and egress can be achieved for the relocated bays

The applicant will be required to update the Travel Plan to include mode share targets in accordance with Policy TA2 of the Torbay Local Plan (2012 – 2030), the requirement for this information can be conditioned to be submitted for approval prior to the occupation of the development.

Torbay Council Drainage Engineer: No objection providing the surface water drainage is constructed in accordance with the latest hydraulic design.

Torbay Council Community Safety Team: No objection.

Torbay Council Arboricultural Officer: No objection subject to submission of details of mitigation planting within the hospital site.

South West Water: No objection.

Environment Agency: No objection subject to a standard contaminated land condition.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle
2. Design and Visual Impact
3. Residential Amenity.
4. Transport and Highway Safety.
5. Ecology and Biodiversity
6. Drainage and Flood Risk
7. Low Carbon Development and Climate Change

1. Principle

With regard to the Development Plan Policy SC1 of The Local Plan outlines the importance for development to contribute to improving the health and well-being of the community. The improvement of hospital services is considered aligned with this policy aspiration. The Neighbourhood Plan is silent on the development of health facilities within its health and well-being policies. With regard to other material considerations the NPPF guides that the purpose of the planning system is to contribute to the achievement of sustainable development and relative to this the planning system has three overarching objectives, one being the social objective. The provision and enhancement of health facilities is considered aligned with the social objective of sustainable development, as supported within the NPPF.

For the reasons above the enhancement of the health facilities provided within this established hospital site is considered to be supported in principle through planning policy.

The principle of the development in the context of it being brownfield development should also be considered. Policy TS4 of The Neighbourhood Plan states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. In the absence of significant adverse impacts the policy indicates that the development should be supported.

2. Design and Visual Impact

With regard to the Development Plan Policy DE1 of The Local Plan, this outlines that development should be well-designed, respecting and enhancing Torbay's special qualities. The Neighbourhood Plan, through Policy TH8, cites that development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings. With regard to other material considerations the NPPF guides that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development (Para 126). It also guides 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 (Para 132).

The scale and design of the development is considered acceptable given the context. The scale

of the building will sit comfortably beside the existing large buildings that form part of the immediate visual context. Although the development is significant it will be lower than adjacent elements of the wider hospital building group that will more widely frame the proposed development. This context (of larger buildings) provides an arrangement where the building will sit comfortably within the locality and where its scale does not raise concern.

With regard to design the development form and detail is considered to harmonise well with the fairly utilitarian feel of the wider building group. These display an evolving character of development spread through many decades. The finish materials consist of aluminium cladding which matches the modern extension to the ICU entrance to the south of the site.

It is considered that the scheme is well conceived and accords with the policy aspirations cited above. As such the proposal is considered to be in accordance with design policies contained within the Development Plan and guidance contained within the NPPF.

The conclusion above has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority pay special regard to the desirability of preserving or enhancing the setting of listed buildings. In this respect the development would have no impact upon the setting of the listed chapel due to the visual disconnect and existing character of the wider hospital setting.

3. Residential Amenity

Policy DE3 of the Torbay Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Neighbourhood Plan is largely silent on the matter of amenity. With regard to other material considerations, the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users (Para 130).

The proposal is set centrally within the hospital site some distance from its borders and adjacent residential occupiers. Considering the location and building arrangement the proposal will not affect the amenity of occupiers of nearby properties/occupiers.

For the above reasons the proposed development would not unduly impact the level of amenity afforded neighbouring occupiers, which presents development that accords with Policy DE3 of the Torbay Local Plan and guidance contained within the NPPF.

4. Transport and Highway Safety

Policy TA1 of the Torbay Local Plan in-part seeks to promote development in locations that are easily accessible and safely reached by foot, cycle, public transport, other sustainable transport or car. Policy TA2 of the Local Plan seeks those major developments should provide a good standard of access for walking, cycling, public and private transport. Policy TA3 of the Local Plan requires all new development to make appropriate provisions for car, commercial vehicle and cycle parking. Policy THW5 of the Torquay Neighbourhood Plan states that to encourage use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate. With development in sustainable locations and promoting accessibility and sustainable travel options but caveats that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 111).

The Design and Access Statement submitted as part of the application does not cite an increase in the employment numbers via the development, but rather that it will improve facilities currently provided by the hospital. The proposal would lead to the loss of 12 disabled parking spaces which are to be located in the car park to the north of the site, there would however still be a loss of overall parking and this loss will require mitigation via a site specific Travel Plan which will be required to meet Policy requirements of 30% modal shift to foot, cycle and public transport, with appropriate mitigation measures should these targets not be met.

Highways have advised that a swept path analysis for the relocated ambulance bays is required to be submitted to ensure an ambulance can safely access and egress in this area, the application is recommended for approval subject to the submission of suitable swept path analysis details.

With regards to the movement and highway considerations focus on the construction impacts and the (assumed) increased patient capacity these matters are not expected to present any

demonstrable harmful impact in terms of highways and movement patterns when considering the much larger scale of the hospital.

As there is a functioning bus route that serves the main reception to the south of the development it is considered expedient to seek information on the construction requirements, compound needs, location, etc, via a Construction Method Statement in order to ensure any impacts upon the bus route, general movement and parking facilities, are limited.

Subject to additional swept path analysis information and the submission of a Travel Plan, the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1, TA2 and TA3 of the Local Plan, Policy THW5 of the Neighbourhood Plan, and guidance contained within the NPPF.

5. Ecology & Biodiversity

With regard to Policy NC1 of the Torbay Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. In regard to other material considerations 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 application is accompanied by an ecological assessment that concludes that as the development site predominantly consists of buildings, hardstandings and car parking with small pockets of amenity grassland, ornamental shrub planting and scattered trees to the north, east and west with a small Leyland cypress hedgerow is present along the eastern boundary. The development will require some smaller ornamental tree and a section of hedge are to be removed. These are to be mitigated by planting within the Hospital grounds. Overall the development site is considered to be of negligible ecological value.

In order to ensure that there are no impacts on nesting birds it is considered reasonable to attach a planning condition to ensure that all works should be undertaken outside of the bird nesting season unless previously checked for the absence of nests by a suitably qualified ecologist (March-September inclusive).

With regard to the policy aspirations towards securing a net gain in biodiversity the accompanying ecology report advises that this may include a least one bird box and one bat box. These could be mounted within the tree group immediately northeast of the Site. The boxes should be installed at a minimum height of 3m with the bird boxes mounted so to avoid the southerly aspects as they can become too hot in the summer. It is suggested that a planning condition to secure proposals to achieve a net gain in biodiversity, to be secured prior to the first use of the development, would be appropriate.

With regard to trees and landscaping on the site there is limited impact due to the area of the site being made up largely of hardscaping. However, some smaller ornamental tree and a section of hedge are to be removed. These are to be mitigated by planting within the Hospital grounds.

Subject to conditions to secure enhancement features and tree planting measures, the development is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Torbay Local Plan, the Torquay Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

Policies ER1 and ER2 of the Torbay Local Plan seeks that development maintains or enhances the prevailing water flow regime on-site and further guides on a hierarchy for the management of surface water with sustainable drainage systems being prioritised. The Torquay Neighbourhood Plan is silent on the matter. In regard to other material considerations the NPPF provides guidance aligned with the Torbay Local Plan, including that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 169).

The site sits in an area with a low risk (Flood Zone 1) of flooding, however it does sit within a Critical Drainage Area as designated by the Environment Agency. The design model has been updated to reflect the plan area of 82.5m as indicated on the project drawings. A site specific flood

risk assessment has been submitted with the application, due to the ground conditions the use of infiltration drainage will not be feasible at this development site. Therefore, the developer is proposing to discharge his surface water drainage at a controlled rate to the existing drainage system. The proposed discharge rate of 1.5l/sec complies with the requirements of the Torbay Critical Drainage Area and a condition is considered necessary to ensure the development it undertaken in accordance with the approved drainage details.

The proposal infiltration drainage is considered to be in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the NPPF.

7. Low Carbon Development and Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The submitted Energy Statement advises that a number of passive measures including its form, fabric and orientation. Photovoltaic array and heat pump are considered the most cost effective and suitable on-site technology available to achieve a low carbon building.

A 20kWp Photovoltaic roof mounted system is proposed for the building. The modelling results show an energy consumption reduction of 33% after the incorporation of passive measures. The proposed building successfully meets the BREEAM Ene04 criteria for passive design analysis.

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

Sustainability

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

The Economic Role

There are no adverse economic impacts that would arise from this development. During the construction phase there will be economic benefits through the creation of additional jobs.

In respect of the economic element of sustainable development the balance is considered to be positive.

The Social Role

The proposal would result in improvements to the current quality of healthcare provided to occupiers of Torbay.

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 passive and renewable energy measures to aid in reducing the carbon emissions of the building during construction and operation. A biodiversity net gain is provided through the addition of bird and bat boxes.

It is concluded that the environmental impacts of the development would be neutral to positive within the planning balance.

Sustainability Conclusion

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

Local Finance Considerations

S106: N/A.

CIL: N/A.

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 will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

Planning Balance

The development would provide an improved, streamlined service which will aid in reducing waiting times for patients to be seen. The addition of improved health facilities will have a positive impact on residents of Torbay. The proposed works will provide a number of additional jobs through the construction of the building itself. Furthermore, the provision of the new building will ensure that existing staff can remain in their current positions and contribute to local household income and household expenditure. These matters weigh in favour of the development.

Housing Supply: N/A.

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 considered the need to work positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

Conclusions and Reasons for Decision

For the reasons stated within this report the development is considered to be in accordance with the Development Plan when considered as a whole and in accordance with the NPPF when considered as a whole.

The NPPF guides on the presumption in favour of sustainable development, and this means for decision making approving development proposals that accord with an up-to-date development plan without delay.

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. There are no material considerations that indicate otherwise in this instance.

The application is, for the reasons stated above and contained within this report, recommended for approval.

The above conclusion is also guided by advice contained within the NPPF that outlines that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It also furthers that decision-makers at every level should seek to approve applications for sustainable development where possible. There are, for the reasons within this report, no substantive reasons to not grant planning permission.

Officer Recommendation

Approval: Subject to;

The submission of a swept path analysis of an ambulance to ensure that safe access and egress can be achieved for the relocated bays;

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

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

Conditions

Drainage

Prior to the first use of the development surface water drainage shall be provided in accordance with the submitted flood risk assessment and shall be retained and maintained at all times thereafter.

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

Nesting season - birds

All demolition and/or the removal of any 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.

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

Biodiversity measures

Prior to the first use of the building hereby approve, measures to maximise opportunities for biodiversity enhancement in and around development, in order to deliver a net gain for biodiversity shall be incorporated and maintained thereafter. This shall include one bird box and one bat box

mounted within the tree group immediately northeast of the Site. The boxes should be installed at a minimum height of 3m with the bird boxes mounted so to avoid the southerly aspects as they can become too hot in the summer.

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

Low Carbon Development

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

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

Energy Statement accordance

The measures within the approved energy statement shall be fully incorporated within the development prior to its first use and maintained thereafter.

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

Solar Panels

Prior to the first occupation of the development hereby approved, details of the proposed solar panels shall be submitted for 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 as such thereafter.

Reason: To ensure an acceptable form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

Contaminated Land

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason(s) To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework.

Materials

Prior to the installation of all external material within the development samples of all the materials, physical or digital, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

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.

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. This shall include mitigation tree planting and include details of stock to be planted including nursery size (stem girth and what size standard), planting pit and if ties and stakes are to be used and how they will be arranged to support the trees

The Scheme shall include details of hard and soft landscaping. 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

CMS

Within one month of the date of the issuing of this decision notice, 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 and users of the Hospital 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.

Tree Protection Measures

Prior to the commencement of development, the tree protection measures outlined in approved tree protection plan section of the Arboricultuural Method Statement 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.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay

SS3 - Presumption in favour of sustainable dev

SS8 - Natural Environment

SS9 - Green Infrastructure

SS11 - Sustainable Communities Strategy

TA1 - Transport and accessibility

TA2 - Development access

TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
NC1 - Biodiversity and geodiversity
TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH8 - Established architecture
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
TTR2 - Sustainable Communities
THW5 - Access to sustainable transport