

Friday, 6 January 2023

## **PLANNING COMMITTEE**

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

**Monday, 16 January 2023**

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 Dart

Councillor Barbara Lewis

Councillor Dudley (Vice-Chair)

Councillor Manning

Councillor Hill

Councillor Mills

Councillor Kennedy

Councillor Jacqueline Thomas

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# PLANNING COMMITTEE AGENDA

**1. Apologies for absence**

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

**2. Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 12 December 2022.

(Pages 4 - 8)

**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. 3 Keysfield Road, Paignton, TQ4 6EP (P/2021/0808)**

Demolition of existing building and formation of 14 apartments. (Outline approval sought for Access, Appearance, Layout and Scale. Landscaping Reserved) (as revised by plans received 17.11.2022 and 19.12.2022, including revised description).

(Pages 9 - 36)

**6. Land North of Totnes Road, Collaton St Mary, Paignton (P/2022/0888)**

Reserved matters relating to P/2019/0281 (Up to 100 dwellings) - relating to (i) layout, (ii) scale, (iii) appearance; and (iv) landscaping.

(Pages 37 - 66)

**7. El-Patio, 11 Alta Vista Road, Paignton (P/2022/1090)**

(Pages 67 - 73)

Reserved Matters application on P/2019/0893. Matters to be discharged: (i) landscaping (to include hard and soft landscaping, and means of enclosure).

**Public Speaking**

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

We are trialling hybrid meeting arrangements to give registered speakers the opportunity to either attend the meeting in person to give their views or to attend the meeting remotely via Zoom. If you would like to attend the meeting remotely to speak you will be provided with a Zoom link to join the meeting. We also ask that you provide a copy of your speech to [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk), before 11 am on the day of the meeting, so that the Clerk will be able to continue to read out your speech if you lose connection or cannot be heard in the physical meeting. Remote attendees who lose connection may still be able to follow the meeting via the live stream on the Council's YouTube channel.

Councillors who are not members of the Planning Committee will also be able to join the meeting via Zoom and must use their raise hand function to declare any interests.

**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, 11 January 2023. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

**Meeting Attendance**

Please note that whilst the Council is no longer implementing Covid-19 secure arrangements attendees are encouraged to sit with space in between other people. Windows will be kept open to ensure good ventilation and therefore attendees are recommended to wear suitable clothing.

If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come to the meeting.

**Live Streaming**

To encourage more people to engage in our public meetings the Council is trialling live streaming our Planning Committee meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

## **Minutes of the Planning Committee**

**12 December 2022**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Dudley (Vice-Chair), Hill, Kennedy, Barbara Lewis, Chris Lewis and Manning

(Also in attendance: Councillors Brooks, Bye and Jacqueline Thomas (virtually))

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### **23. Apologies for absence**

Apologies for absence were received from Councillor Mills and Dart and it was reported that, in accordance with the wishes of the Conservative Group, the membership of the Committee had been amended to include Councillor Chris Lewis in place of Councillor Jackie Thomas (who observed the meeting remotely.)

### **24. Minutes**

The minutes of the meeting of the Committee held on 14 November 2022 were confirmed as a correct record and signed by the Chairman.

### **25. Rowcroft Hospice, Avenue Road, Torquay TQ2 5LS (P/2022/0772)**

The Committee considered an application for Demolition of Mildmay, the art room and estate workshop buildings and construction of new 60-bed specialist dementia and complex needs nursing home with ancillary facilities (Use Class C2). Remodelling of and extension to Main House to provide a 14-bed inpatients unit with ancillary facilities (Use Class C2). Remodelling of Rainbow House and construction of 40 assisted living units with communal facilities (Use Class C2). Construction of 3 guest lodges (Use Class C2). Construction of shared resident and community facilities comprising restaurant (Use Class E(b)), creche / nursery (Use Class E(f)) and community room / village hall (Use Class F2(b)). Construction of estate workshop. Associated car and cycle parking. Comprehensive landscape scheme to include publicly accessible amenity space, communal and private amenity space, restoration of boating lake, sustainable drainage features, allotments, new tree planting and associated works. Various vehicular, cycle and pedestrian routes through the site. All associated infrastructure works. (As amended by plans received 14.11.2022.).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. Margaret Forbes-Hamilton addressed the Committee on behalf of the Torquay Neighbourhood Forum in

support of the application (virtually). Mark Hawkins addressed the Committee in support of the application.

At the meeting the Planning Officer advised that comments from Devon County Council had been received providing an update on biodiversity, this was circulated on 12 December 2022 just prior to the meeting.

Resolved (unanimously):

Approved subject to:

1. the satisfactory completion of a Stage 1 Road Safety Audit for the segregated pedestrian/cycleway route to Shiphay Lane and crossing of Shiphay Lane;
2. the completion of a satisfactory Section 106 planning agreement and the agreement of any necessary extensions to the statutory determination period to complete this agreement;
3. 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
4. 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 1: Whilst the formal status of the Torquay Neighbourhood Forum expired on 8 December 2022, an application has been made to renew this and on this basis the Chairman agreed to allow presentation from the Torquay Neighbourhood Forum on this application and other applications at the meeting on 12 December 2022.)

(Note 2: Councillor Kennedy joined the meeting during discussion of this item but did not vote on the item.)

**26. Former Shedden Hall Hotel, Shedden Hill Road, Torquay TQ2 5TX (P/2021/1314)**

The Committee considered an outline application for the construction of residential accommodation for up to 25 units (detailed approval sought for access, appearance, layout and scale, with landscaping a Reserved Matter).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. Margaret Forbes-Hamilton addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application (virtually). Jan Tribble and Neil Wilson addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that discussions had been held with the applicant to reduce the height of both buildings by 600mm.

Resolved (unanimously):

Approved subject to:

1. the agreement of an acceptable provision of affordable housing, or the provision of an Affordable Housing Review Clause within a Section 106 Legal Agreement, signed within 4 months of the committee date. In the absence of either being secured (or reasonable progress being made to secure the Section 106 within a reasonable alternative timescale) the application to be refused, delegated to the Divisional Director of Planning, Housing and Climate Emergency;
2. 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.

**27. Land To The North Of Totnes Road, Collaton St Mary, Paignton (P/2021/1180)**

The Committee considered an application for Reserved Matters relating to Outline Application P/2019/0604. Matters for approval: details of appearance, landscaping, layout, and scale, as stated in Appeal Condition 01 (revised documents received 24 October 2022).

Prior to the meeting written representations were available on the Council's website. Colin Danks addressed the Committee in support of the application. Additional information from the applicant was circulated immediately prior to the meeting.

At the meeting the Planning Officer outlined the revised Officer Recommendation and proposed conditions.

Resolved (unanimously):

Approved subject to:

1. the resolution of identified highway matters to be delegated to the Divisional Director of Planning, Housing and Climate Emergency;
2. the conditions as outlined in the submitted report and updated at the meeting, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency, subject to a detailed review of matters raised in the applicant's letter dated 9 December 2022; 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.

**28. Former Magistrates Court, Union Street, Torquay TQ1 4BP (P/2022/0969)**

The Committee considered an application for the conversion of the former Magistrates Court to form 14 residential apartments, including partial demolition, the provision of an additional floor, and external changes including the provision of balconies, terraces, and associated car parking, bike parking and bin storage.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. Margaret Forbes-Hamilton addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application (virtually).

Resolved (unanimously):

1. 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
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

**29. Land At Princess Gardens, Off Torbay Road, Torquay TQ2 5EY (P/2022/1032)**

The Committee considered an application for change of use of land for the temporary erection and operation of an observation wheel and ancillary development, for a one-year season (between the period of March to October 2023).

Prior to the meeting written representations were available on the Council's website.

Resolved (unanimously):

Approved subject to:

1. prior to the grant of planning permission a 'Conservation Mitigation Obligation' to the sum of £20,000 secured through legal agreement, for restoration works to the adjacent Listed War Memorial;
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

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## TORBAY COUNCIL

Application Site Address	3 Keysfield Road, Paignton, TQ4 6EP
Proposal	Demolition of existing building and formation of 14 apartments. (Outline approval sought for Access, Appearance, Layout and Scale. Landscaping Reserved) (as revised by plans received 17.11.2022 and 19.12.2022, including revised description).
Application Number	P/2021/0808
Applicant	Chace Construction
Agent	AD Architecture
Date Application Valid	01.02.2022
Decision Due date	03.05.2022
Extension of Time Date	20.01.2023
Recommendation	Approval
Reason for Referral to Planning Committee	Major development
Planning Case Officer	Scott Jones

### Location Plan –



## **Site Details**

The site sits on the northern side of Keysfield Road in the largely residential area of Roundham in Paignton. The plot is spacious and tree-lined and holds a large detached Victorian Villa dating from 1870-1915. The Villa and the plot are in poor repair, the building appears inhabitable and shows external evidence of fire damage and the plot in general is unkempt.

The Villa is somewhat typical of its time with smooth stucco-rendered walls under a slate multi-pitched roof with some pleasant quoin, banding and window surround detail. The window stock is incomplete with some windows boarded and those that are visible are a mixture of timber sliding sash and more modern replacements.

The Villa sits towards the western side of the plot with a substantial garden setting to the north and east of the building. In terms of access there are two vehicular access points that punctuate the front boundary wall onto Keysfield Road.

In terms of context there is a mixture of Victorian and latter 20<sup>th</sup> Century development within the immediate surrounds, with a number of plots providing flatted residential uses, some of which are holiday uses.

In regard to designations the plot sits within the Roundham and Paignton Harbour Conservation Area and is highlighted as a '*Key Building of architectural importance or which make a significant contribution to the townscape*' within the Conservation Area Character Appraisal. There is also an Area Tree Preservation Order (Ref 1974:14) that covers the site.

In terms of further designations the site is within a Critical Drainage Area that covers most of Torbay.

## **Description of Development**

The application is submitted in Outline however the proposal seeks detailed approval of all matters (Access, Layout, Scale and Appearance) except Landscaping, which is proposed to be sought through a subsequent reserved matters application should planning permission be granted. The application is hence substantially detailed for an outline application. The proposal principally seeks the demolition of the existing building/s and redevelopment of the site to provide 14 apartments in a single replacement building.

The submission of revised plans has reduced the number of units from 15 units to 14 units and presented several material alterations to the initial submission seeking to overcome matters raised.

The proposal now being considered presents a single apartment building with the principal rectangular element being 3-storeys plus a recessed roof storey, supplemented with 2-storey wings to either side towards the rear. The building is modern in character and form, seeking a modern interpretation of the Victorian villa form. Walls are rendered and punctuated by vertically emphasised windows and bay

features. The roof storey is recessed and finished in a grey standing seam finish. Doors and windows are grey Upvc.

In terms of layout the proposed building is to be in a similar position to the existing building in the site. Car parking is arranged to the front and side, with 16 spaces provided, 2 of which are disabled spaces, and gardens are retained and provided to the sides and rear as amenity space. Cycle storage and waste storage are proposed within a purpose-built outbuilding to the adjacent to the parking area. Vehicular access will be reduced from 2 points to a single central point.

The scheme will deliver 14 apartments, 7x 2-bed apartments and 7x 3-bed apartments.

The layout secures the retention of trees along the border with Keysfield Road and to the east of the plot.

### **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 "TLP")
- The Paignton Neighbourhood Plan (the "PNP")

#### **Material Considerations**

- Roundham and Paignton Harbour Conservation Area Appraisal
- 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:**

Recent pre-application in 2018 that raised concerns over the removal of the Villa and the resultant amount of development being proposed. There have also been a number of previous pre-applications within the past 15 years that have sought to remove the Villa and regenerate for residential purposes. The pre-applications were generally not supported.

#### **Applications:**

P/2019/0738: Outline application for the demolition of the existing building and formation of up to 24 apartments with parking, with all matters reserved except for access. Withdrawn following extensive officer discussions and concerns raised.

P/2020/0222: Outline application for partial demolition (rear wing) and the conversion and extension of the existing building to form 10 apartments (Access, Layout, Scale and Appearance Detailed, Landscaping Reserved). Approved.

### **Summary of Representations**

A total of 16 public representations received, 15 support and 1 neutral, with summary of comments as below:

- Provides housing
- Removes an eyesore
- Desperately needs redeveloping
- Will hopefully stop antisocial behaviour experienced for years
- Good use of a brownfield site
- Good design – will enhance the road
- Great improvement and a real asset to the area
- Hope the development looks after wildlife

### **Summary of Consultation Responses**

**Paignton Neighbourhood Forum:** No comment provided.

#### **Historic England**

Object.

No 3 Keysfield Road is a positive contributor to the significance of, and a key building within, the Paignton and Roundham Harbour Conservation Area. It typifies the building type of a historically significant phase of development of the area, whose nationally important character and appearance is slowly being eroded by the loss of the original buildings and introduction of alien architectural forms. As heritage assets are irreplaceable, its total loss through demolition would cause harm to the significance of the designation heritage asset (NPPF, Paragraph 189).

A consent exists for an extension and conversion of the building into ten apartments. This would be a less harmful solution to return the building into full use and therefore the harm brought about by its loss cannot be justified (NPPF, Paragraph 200).

The further information submitted consider that the deteriorating conditions of the site and the surrounding grounds should be taken into account in determining this application. We disagree with this statement as Paragraph 196 of the NPPF clearly states that 'Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision'.

We acknowledge the poor conditions of the building and would remind your Authority of the statutory powers to serve a notice, under Section 215 of the Town and Country Planning Act (1990), to improve the appearance of the external grounds. At the same time, we would highly recommend engaging with the applicant in order to put in place the necessary measure to secure the building and prevent further deterioration of the structure.

## Recommendation

In determining the application the authority should bear in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

### **Highway Authority**

The Local Highway Authority do not have sufficient information regarding the proposals to make a decision regarding the acceptability of the proposals in respect to highways. The Applicant is still required to provide the following information:

- Further clarity regarding the proposed specific siting of the gate, and further information regarding the proposed operation of said gate.
- The Applicant is required to demonstrate that all proposed parking spaces can be accessed without excessive reversing.
- The Applicant is also required to demonstrate that a refuse vehicle can access the site without having to undertake excessive reversing.
- The Applicant is required to provide an updated Travel Plan which meets the previously outlined criterion.

*(Officer comment: See Planning Officer Assessment for further detail on these matters)*

### **Torbay Council Drainage Engineer**

Providing the surface water drainage is constructed in accordance with the following documents, I have no objections on drainage grounds to planning permission being granted.

1. The site specific flood risk assessment addendum report dated 6th April 2020.
2. The surface water drainage layout drawing, number AT2400 01 revision A.
3. The surface water drainage hydraulic design included within the addendum to the site specific flood risk assessment.

### **Torbay Council Heritage Officer (Initial Scheme)**

I have reviewed the submitted Architectural Assessment and Design and Access Statement and read Historic England's comments from 14 March 2022.

3 Keysfield Road is a non-designated heritage asset as identified within the Roundham and Paignton Harbour Appraisal and this also identifies it as a key building of architectural importance and a significant contributor to the townscape. Although the applicants submitted appraisal refers to the significance of the building, there is no identification around the potential for the building to be appropriately repaired and fully reused. This appears to be a key part of the methodology for clearly understanding the significance, balancing harm and identifying the public benefits of the scheme.

I am conscious that a number of other villas have been demolished in the vicinity and as such, they could be considered a finite resource. Demolition of the building would impact on the integrity, character and appearance of the Conservation Area, which is fundamental to its significance.

The building and gardens current condition do not justify demolition and redevelopment. These issues could be resolved through careful adaption and/or appropriate extension to the current building. The embodied carbon and retention of the building is a key consideration and part of the Council's commitment to a sustainable approach to development.

The proposed replacement building does feel at odds with the existing urban grain. I agree with Historic England's assessment of the proposal who considers the scale, massing, design and materiality of the proposal to conflict with the distinctive domestic architectural form and language of the conservation area.

In summary, I do not support the loss of the existing building or the proposed replacement for the reasons set out above.

**Torbay Council Community Safety Team**

Confirm no objection to the planning application.

**Torbay Council Arboricultural Officer**

The submitted information provides arboricultural support to the proposed development. The retention of the trees along the road is welcomed as is the acknowledgement of retaining the treed nature that is a characteristic of the Conservation Area. The impact of the 'no-dig' proposal is likely to be reduced owing to the existing tarmac layer providing for the parking on the site. Providing that there are no changes in levels at this point the no-dig solution should be viable.

The removal of the smaller trees to the rear is justified with the caveat of replanting to be carried out.

Conclusion: The site is sustainable from an arboricultural perspective.

Recommendations: A detailed arboricultural method statement for the 'no-dig' area is submitted and approved prior to commencement of works

**South West Water**

Asset Protection

No development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal.

Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site.

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable. Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into the ground (infiltration) is acceptable and meets with the Run-off Destination Hierarchy.

#### **Police Designing Out Crime Officer**

Having reviewed the documents and to save duplicating previous advice and recommendations please find attached copies of our initial response, the content of which remains valid, where relevant, and should still be considered in the decision-making process for the above.

It is welcomed that each dwelling will have a visitor door entry system with visual and audio facility, however it is not recommended that the system has a tradesperson button. As an observation it states under the physical protection section of the DAS that guidance will be sought from Secured By Design Homes 2016 v2, however this has been replaced by Secured By Design Homes 2019.

#### **Independent Viability Assessor (William Lean Associates)**

The purpose of the review is to consider if the previous application to convert and extend is a viable scheme that may address the deteriorated state of the building/site, and to review the viability of the current proposal.

The previous consent is not viable and is unlikely to be progressed. There is no profit and there are inherent risks and costs of dealing with a building with fire damage and apparent structural damage.

The proposed scheme shows profit and is likely to be deliverable with an acceptable profit margin for the developer.

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

##### **Planning Officer Assessment**

1. Principle of Residential Development
2. Demolition, Design and Visual Impact (Including Heritage Impacts)
3. Residential Amenity
4. Parking, Movement and Impact on Highway Safety.
5. Ecology, Biodiversity and Trees
6. Drainage and Flood Risk
7. Low Carbon Development
8. Housing Supply

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

In terms of the principle of a residential use policy H1 of the Local Plan states that proposals for new homes within the built-up area (as is the case in this instance) will be supported subject to consistency with other policies in the Local Plan. In addition the principle of development is considered consistent with Policies SS11 (Sustainable

Communities) which supports proposals that regenerate or lead to the improvement of social, economic or environmental conditions, SS12 (Housing) which supports the delivery of 8900 new homes in the plan period, and SS13 (five year housing land supply).

In terms of the Neighbourhood Plan policy PNP1 includes that development proposals will be supported which provide housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2015 (c), which bring back into use existing homes that have been vacant for 6 months or more (d), and 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 (e).

In terms of national policy guidance the principle of the proposal is aligned with the National Planning Policy Framework (NPPF), which support a sustainable pattern of housing provision with an emphasis upon the regeneration of brownfield sites, town centre sites and urban sites such as this one.

Considering the broad aspirations of the Development Plan policies cited above, and guidance contained within the NPPF, the principle of residential use on the site is considered supported in policy terms and acceptable, subject to wider policy considerations that are relevant. It is noted that the site is well located for housing as it is in a sustainable location that has good access to shops and other services, transport links and recreational areas, within an area that already has a residential character. It is also a vacant, derelict site with no purposeful use. The context supports the principle of a residential use being acceptable.

## **2. Demolition, Design and Visual Impact (Including Heritage Impacts)**

The site is located within the Roundham and Paignton Harbour Conservation Area and the Conservation Area Character Appraisal identifies the Villa as a '*key building of architectural importance or which makes a significant contribution to the townscape*'. The street-facing boundary wall is also highlighted as a prominent wall and the Villa's main elevations (front and sides) are highlighted as largely unspoilt frontages retaining significant period detail, although obviously there has been some significant deterioration of the buildings' condition since the appraisal was undertaken.

Policy SS10 of the Local Plan requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance. Policy DE1 seeks development to be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.

The policies cited above are aligned with guidance contained within the NPPF which promotes good design and also seeks local planning authorities in decision making to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities



including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

Key considerations include whether the demolition and loss of the current building is acceptable when considering the heritage context, and if so whether the proposed building is of sufficient quality and design as a replacement building.

### Demolition

As a key building in a Conservation Area the demolition and loss of the building is a central question to consider.

There is consistency in the advice from both Historic England and Councils' internal heritage advisor, in that the current building is considered a positive contributor to the significance of the Paignton and Roundham Harbour Conservation Area, which is a designated heritage asset. As a positive element within the Conservation Area the building is considered a non-designated heritage asset. There is also a consistent view within the heritage advice that the loss of original buildings in the Conservation Area has eroded the character of the area and the remaining ones are a finite resource and vitally important.

The central point of heritage advice is that heritage assets are irreplaceable and the buildings total loss through demolition would cause harm to the significance of the designation heritage asset, the Conservation Area. Historic England notes an existing consent for extension and conversion that would be a less harmful solution to return the building into full use, and therefore the harm brought about by its loss in this scheme cannot be justified. Historic England also disagree with the premise that the deteriorated state of the building should justify its removal, as the NPPF states that where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision. They also note the mechanisms for tidying up the site available to the Authority.

The existence of an extant scheme that retains the villa is a key material consideration and, aligned with Historic England's position, it does on face value add weight to the case to resist the removal of the building. This issue has been raised with the applicant and the application is supported by a viability assessment that seeks to show that the previously consented "retention" scheme is not actually viable and will not come forward, and that the proposed scheme is a viable option that would come forward if consented.

The viability assessments have been reviewed by an independent 3<sup>rd</sup> party instructed by the Local Planning Authority, with the review undertaken to robustly conclude on the argument presented in support of the loss of the Villa. The review has agreed with the conclusions made, that the extant conversion scheme is not viable and is hence unlikely to come forward, and that the current scheme is a viable proposition.

Considering the conclusions of the viability review there is a danger that if not replaced the site and building would be left empty, deteriorate further, and continue to offer no beneficial use. It is reasonable to give some weight in favour of the current proposal in such a context. It is noted that Historic England has raised that the deteriorated

state should not be taken into account in determining this application, where they cite Paragraph 196 of the NPPF stating that '*Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision*'. In terms of neglect the site and building has clearly suffered from neglect and is clearly in a neglected state. The building has sat unused for many years and has been subject to fire damage during this period. However it is uncertain whether there has been deliberate neglect or damage as envisaged by the NPPF insomuch that the deteriorated state of the building should be disregarded within the heritage context.

As matters stand the removal of the building will present what is deemed to be less than substantial harm to the Conservation Area. In accordance with guidance contained within the NPPF within the decision-making process great weight should be given to the asset's conservation (Para 199). It is also recognised that the NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202). The removal of the Villa would cause its total loss as a non-designated heritage asset. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application in accordance with Para 203 of the NPPF, and in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss and the significance of the heritage asset.

Considering it is not clear that there has been deliberate neglect so as to engage Paragraph 196 of the NPPF, the harm from the loss of the building should be considered aside there being no realistic prospect of the building being restored as a dwelling or redeveloped as part of a restoration scheme when considering the findings of the viability assessment accompanying the application. Under these circumstances and considering some moderate weight to the dwellings provided as part of a redevelopment scheme, subject to a replacement scheme presenting a neutral or positive impact on the Conservation Area, the demolition is considered acceptable. In accordance with Paragraph 204 of the NPPF reasonable steps should be taken to ensure any development proceeds after demolition occurs, which can be delivered via a planning condition for evidence of a contract for its redevelopment prior to the removal of the Villa.

### Design and Visual Impact

The original submission for 15 units retained the general principles of the extant 2020 10-unit scheme but replaced the existing villa with a 'modern interpretation'. This presented a similar T shaped footprint but a far more unsatisfactory proposition generally. Whereas the renovation scheme presented a deferential rear wing to the retained villa, which maintained the primacy and character of the villa, the submitted scheme presented a T-shaped modern building that lost reference to the character of the current plot and buildings of merit within the wider Conservation Area, that of substantial (largely rectangular) buildings in large plots. In addition to this the elevation treatment was considered poorly resolved and, overall, the proposal was considered unacceptable in terms of its visual qualities. It was deemed to present a harmful

impact as a replacement building to the existing 'key building'. Historic England and the Council's heritage advisor offered comparable views that considered the scale, massing, design and materiality of the proposal to conflict with the distinctive domestic architectural form and language of the Conservation Area, considering it a very large and under-detailed development that would neither preserve nor enhance the character and appearance of the area.

Following discussions with the agent a revised scheme was submitted and re-advertised that sought to respond to the concerns raised.

The revised proposal removed the 3<sup>rd</sup> floor of the right-hand side rear wing, in order to present some clearer deference of the linear rear wing to the main building. This was in order to redefine a modern rectangular villa with extensions rather than a modern T shaped building. This resulted in the loss of one apartment and a reduction to 14 units in total now being considered. This amendment provides some balance to the scheme and reinforces the character of a large rectangular building akin to typical villas. In term of elevation treatment the previously bulky parapet has been reduced which removes the top-heavy feel to the previous scheme and exposes the roof element more. This is again more successful, and its success should be secured by ensuring a suitable material finish to the uppermost roof storey that presents it as a roof element. This can be secured by a planning condition for a sample of the standing seam cladding, to reflect the traditional slate. The elevation treatment through the principal elevations of the main element has been lifted with improved opening arrangement and the introduction of a far more successful interpretation of the historic bay details. The success of the bay details is aided by the drawings showing frameless glass, which should be secured by a planning condition to secure the necessary clean lines and a scheme of sufficient quality for the context. The proposal seeks grey Upvc doors and windows, and these could be acceptable provided they are well detailed, with slim frames and set in sufficiently deep reveals to add some depth to the elevations. Planning conditions can secure appropriate detail on these minor detailed elements.

When considering the proposal in the round the scheme is now considered adequately resolved. The loss of the current buildings intrinsic period character is unfortunate and would present some harm, however the revised scheme is sufficiently enhanced in terms of its scale, massing, design and materiality in order for the scheme to be considered acceptable in design and heritage terms, when considering the limited level of harm, there being no realistic prospect of the building being restored as a dwelling, or redeveloped as part of a restoration, together with the public benefits of securing a purposeful use for the site and delivery of housing. The scheme is hence considered acceptable in terms of its design and impact upon the character and appearance of the Conservation Area, and is therefore considered substantially in accordance with design and heritage policies contained within the Development Plan, principally policies SS10 and DE1 of the Torbay Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

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

### 3. Residential Amenity

Policy DE3 of the 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 Paignton Neighbourhood Plan is largely silent on the matter of amenity other than referencing air, noise and light pollution (PNP1(c)). The NPPF guides (Para 127) that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

In respect of future occupiers the internal living spaces are suitably scaled and exceed the minimum space standards outlined within Policy DE3 and are quite generously sized. The units also all benefit from adequate outlook and will receive adequate levels of natural lighting to key living spaces. Regarding outdoor amenity space certain apartments at ground floor level will benefit from the use of terraces or a courtyard/garden area, and more broadly the proposal retains a large garden for communal use. Upper floor units will also generally be supported by balconies or terrace space. The general provision will provide outdoor space that accords with and exceeds the expectations outlined within Policy DE3 where apartments should, where possible, be afforded 10sqm of outdoor space either privately or as part of a larger communal offering. In terms of the broader residential elements the occupiers will be provided with on-site parking, and designated cycle storage and waste storage facilities. These facilities complete what is considered to be a good standard of residential environment for future occupiers.

In respect of neighbouring amenity the replacement element for the Villa will not present any undue impact upon adjacent occupiers due to the established relationship and the distances to adjacent plots and properties.

The rear elevation will be within quite close proximity to the northern boundary but considering the tiered arrangement, and the arrangement of buildings and plots adjacent there would be no undue impact to light and outlook from the scale of the building. In regard to overlooking and loss of privacy the rear building line is between 6.5m-8m from the plots' boundary to the north, with the first floor building line recessing 1.5m and the upper floor building line a further 2m away from the border. To the north-west the adjacent plot has a parking area immediately adjacent and the nearest built element is around 12.5 metres from the joint border, this presents a distance of around 20m building to building. The plot appears to be in holiday use offering apartment accommodation. Considering the form of residential use, i.e. multi-unit use of the adjacent plot, and that the adjacent land is communal parking, the privacy of occupiers would not be unduly impacted as the building is adequately distanced and the immediate land adjacent is parking and communal in use. It should be noted that the landscape proposals are reserved for future consideration which may present the opportunity for some screen planting to soften the relationship. Turning to the plot to the north-east this appears to provide flats with communal gardens. The building is at an oblique angle with the nearest building line approximately 7 metres from the edge of the joint border. This presents an angled relationship of around 15m-16m between buildings. Due to the oblique angle loss of privacy from inter-looking is unlikely. Regarding overlooking into gardens the adjacent space is communal and hence the

impact of the development would be muted in such a context. Again as the landscaping is reserved for future consideration there is the ability to consider softening of the relationship with future planting.

In more general terms the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area. The retention of the parking to the front helps retain the sides and rear of the plot as more tranquil areas devoid of vehicular noise and light-spill from headlights.

Finally in terms of the temporary impacts of the construction phase there will naturally be some short-term impacts, however such impacts are not unusual, and the effects can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition.

To conclude, for the above reasons the proposed residential environment would appear adequate and the development would not unduly impact the level of amenity afforded neighbouring occupiers, which presents development that accords with Policies DE1 and DE3 of the Torbay Local Plan and guidance contained within the NPPF.

#### **4. Parking, Movement and Impact on Highway Safety**

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

The Paignton Neighbourhood Plan supports the provision of electric charging points where possible within policy PNP1(h).

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

In regard to access considerations the removal of the secondary access does not present a highway safety concern and presents some broader design benefits, detail of which should match the existing.

Regarding parking the proposal is considered compliant with the expectations outlined within the Torbay Local Plan. The development provides 16 spaces to serve 14

apartments which accords with the guidance of 1:1 parking whilst offering a more than adequate degree of visitor parking. Within the 16 spaces there are 2 disabled spaces, which accord with the expectation of 10% provision outlined within Appendix F of the Torbay Local Plan. It is noted that the proposal is silent on electric charging points and there is a policy expectation for 20% provision within the Torbay Local Plan, which is supported by policy guidance within the Paignton Neighbourhood Plan. Notwithstanding the proposal's silence on the matter this particular element can be secured by a planning condition.

In regard to sustainable modes of transport the proposal includes a designated cycle store that appears covered and secure, which is considered adequate. In terms of broader matters of sustainable transport the proposal has good pedestrian links to recreational areas, shops and services, and hence is considered well-located for residential purposes. Details of the materials and fully enclosed form of the cycle store should be secured by a planning condition.

In terms of concerns raised by the Highway Authority the ambition for a gated access has been removed and can be conditioned, to guard against vehicles waiting within the highway. In terms of access to the waste store the proposed layout is similar to that consented and is considered acceptable. In terms of access to parking spaces the arrangement is considered acceptable and swept paths have been provided to show that vehicles can turn within the areas adjacent and hence not require the reversing distances previously shown. Finally, a travel plan can be secured by a planning condition. Overall, the provision is considered adequate and well resolved.

Considering the points above, which conclude that the proposal offers an acceptable access and good levels of parking and cycle storage, the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA2 and TA3 of the Torbay Local Plan and guidance contained within the NPPF.

## **5. Ecology, Biodiversity & Trees**

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 PNP1(c) of the Paignton Neighbourhood Plan cites guidance on safeguarding biodiversity, securing bat and bird boxes, and protecting trees and providing hedgerows to aid biodiversity.

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

The application is accompanied by an update (2022) ecological statement that supports the findings of the previously submitted ecological assessment (2019).

The update statement offers that the findings of the original ecology report are still valid as the site has not significantly altered since this survey was undertaken. The

building continues to be in a poor state of repair, with significant pigeon nesting throughout the first floor and loft areas. The buildings were found to have negligible suitability to support roosting bats. It was considered the proposals would have a negligible impact on bats and/or bat roosts due to the lack of features, and the site continues to provide some areas of habitat likely to support slow worms. No badgers setts, latrines or signs were identified within the development site.

All matters considered the assessment does not identify any ecological reason why planning permission should not be granted. It is proposed to attach appropriate planning conditions to address the issues that are raised within the ecological assessment and to ensure protected species are duly considered through the clearance and construction phase and ongoing management of the site.

In regard to biodiversity the scheme again secures the retention of the key trees in the southern and eastern parts of the site adjacent to Keysfield Road and within the larger retained garden space. The retention of trees aids biodiversity goals and also aligns with policy guidance relating to the aspiration to retain trees of significance within the townscape. A planning condition is recommended to ensure the future landscaping reserved matters provides an appropriate biodiversity assessment and demonstrates a net gain include delivery of features within the build.

The Council's Arboricultural Officer is supportive of the current detail to retain the most important trees, with further consideration of the broader landscape proposal being deferred until the landscaping reserved matters is submitted.

Having considered the submitted assessment, subject to conditions to secure enhancement features and tree protection measures, as suggested, the development is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

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

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.

Policies ER1 and ER2 of the Torbay Local Plan outline a hierarchical approach with an emphasis on sustainable urban drainage methods as the preferred option for ensuring that development proposals do not increase the risk of flooding. Policy PNP1(i) supports this position by stating that developments will be required to comply with all relevant drainage and flood risk policy. Furthering that proposals, which achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source, are encouraged. The NPPF is also supportive with advice within Para. 163 citing that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere.

A Flood Risk Assessment has been submitted that confirms the scheme proposes a site-wide approach of a SUDS systems with soakaways within the eastern part of the site.

The Council's drainage engineer has considered the drainage detail has confirmed that providing the surface water drainage is constructed in accordance with the documents there is no objections on drainage grounds to planning permission being granted. The documents being the site specific flood risk assessment addendum report dated 6<sup>th</sup> April 2020, the surface water drainage layout drawing, number AT2400 01 revision A, and the surface water drainage hydraulic design included within the addendum to the site specific flood risk assessment.

The proposal is for the reasons above considered acceptable on flood risk and drainage grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, policy PNP1(i) of the Paignton Neighbourhood 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.

PNP1(f) of the Paignton Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability, sustainable construction, water management technologies, and on-site renewables to achieve 20% of the resultant development energy requirement.

The application is supported by an Energy Statement. The statement is silent on construction aspirations but does explore opportunities for renewable energy production. The document and wider application does not however develop the assessment into a firm proposal towards how the scheme aims to reduce its carbon footprint.

In order to respond to policy aspirations it is considered positive and proactive to address this uncertainty thorough a planning condition attached to any grant of permission. This condition would be worded to secure details of construction aims to reduce carbon use, and details of renewables to address the expectations of PNP1(f), whereby 20% of its future energy consumption should be delivered on site if viable and achievable.

Subject to a robust condition the development would be considered suitable for approval, framing development to accord with Policies SS14 and ES1 of the Torbay Local Plan, PNP1(f) of the Paignton Neighbourhood Plan and advice contained within the NPPF.

## **8. 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, unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed, or if any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

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 should the 'tilted balance' be applied.

Officer opinion is that any harm to the Conservation Area from the loss of the Villa, which is also a non-designated heritage asset, is not significant in combination with its replacement with the development proposed, and hence policies relating to heritage assets do not provide a clear reason for refusing the development proposed, and the 'tilted balance' is engaged.

### **Sustainability**

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

#### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. The development would see the use of an empty site that has not been used for many years.

Once the dwellings are occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development.

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

## **The Social Role**

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

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

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

## **The Environmental role**

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

The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition. Heritage impacts are slightly negative, drainage is positive with an enhanced surface water management over the current regime.

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

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

## **Sustainability Conclusion**

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

## **Local Finance Considerations**

### **S106:**

Affordable Housing: Not applicable to this scale of development on a brownfield site.

### **CIL:**

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

The original submitted CIL form states that the development will provide 1398sqm of new floor space but has been reduced slightly due to a loss of a unit. Subject to due

diligence in terms of the existing floor space the development is expected to secure circa £92,000 in CIL payments.

### **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 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 positive impact overall and help with the supply of much needed housing. There is some minor discord in terms of heritage impacts however when considered in the round, is deemed to provide a proposal that is acceptable on balance.

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

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

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

### **Proactive Working**

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

In this instance substantial amendments have been secured during the application to improve the design and visual qualities of the scheme. In addition the layout has been amended to provide a more satisfactory car parking arrangement in operational and visual impact terms. Officers conclude that this application is now acceptable for planning approval.

## **Conclusions and Reasons for Decision**

Viability evidence demonstrates that the previously approved retention scheme is not viable and is hence unlikely to come forward. There is a danger that if not replaced the site and building would be left empty, deteriorate further, and continue to offer no beneficial use.

The design of the replacement building has been enhanced through the course of the application and is now deemed adequately resolved as a response to its context and a response to the harm from the loss of period buildings intrinsic historic character.

The recommendation balances harm and benefits and recognises that the NPPF guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202). It also considers the loss of the building as a non-designated heritage asset and the concerns raised by both Historic England and the Council's own conservation advisor.

The proposal would provide 14 units of accommodation on a brownfield site in a sustainable location, which are of good quality, providing a good standard of amenity for future occupiers. This would present a moderate public benefit and a purposeful use for a site that has sat empty for many years.

The scheme retains a garden setting and protects mature trees around the borders, which offer some general ecological and visual amenity benefits in terms of the verdant character of the area.

The access is considered acceptable and parking on site is in accordance with policy expectations.

There is also no risk of flooding of land or buildings adjacent as the sustainable urban drainage system is supported by the Council's specialist engineers.

In-line with the above conclusions and the detail contained within this report, the proposal is considered to be in overriding accordance with the provisions of the Development Plan. The NPPF guides that development proposals that accord with an up-to-date development plan should be approved without delay.

It should be noted that the NPPF (Para 38) guides 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;

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

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

### **Conditions:**

#### **Standard Conditions:**

##### **Standard Time Condition**

- that in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
- that the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

##### **P1 Approved Plans Condition**

#### **Additional conditions:**

##### **1. Reserved Matters Condition**

An application for the following reserved matters shall be submitted to the Local Planning Authority for its approval in writing:

- (i) landscaping.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent. Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

##### **2. Biodiversity measures – plot**

The reserved matters pursuant to Condition 01 shall include an assessment and proposed measures to enhance biodiversity. The approved biodiversity enhancement measures shall be installed/provided prior to the first occupation of the development or within the first available planting season, whichever is practicably sooner when considering the form of the enhancement measure/s, and then shall be maintained as such at all times thereafter.

Reason: To secure biodiversity enhancements in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

### **3. Biodiversity measures – building**

Prior to the continuation of development of the build process above finished ground floor level (excluding demolition or general groundworks), details of the proposed measures to deliver biodiversity net gain within the buildings shall be submitted to and approved in writing by the Local Planning Authority.

The approved biodiversity enhancement measures shall be installed prior to the first occupation of the development and then shall be maintained as such at all times thereafter.

Reason: To secure biodiversity enhancements in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

### **4. Contract to redevelop**

The Villa shall not be demolished until a contract for carrying out the redevelopment of the site to deliver the development hereby granted consent has been entered into and a copy of the contract provided to and acknowledged by the Local Planning Authority.

Reason: To protect the character and appearance of the area, in accordance with Policy SS10 of the Torbay Local Plan and Paragraph 204 of the NPPF. A contract for redevelopment is required pre-demolition to ensure that the loss of the building is countered by the benefits of redevelopment.

### **5. Energy / Low Carbon**

Prior to the continuation of development of the build process above finished ground floor level (excluding demolition or general groundworks), details of the proposed measures to deliver low carbon development, and energy efficiency measures, shall have been submitted to and approved in writing by the Local Planning Authority. The measures shall seek to deliver, unless proven unpracticable, no less than 20% of subsequent in-use requirement delivered by on-site renewable energy sources.

The approved measures shall be implemented in full prior to the first occupation of the development and retained and maintained for the lifetime of the development.

Reason: In the interests of sustainable development and in accordance with Policies SS14 and ES1 of the adopted Torbay Local Plan 2012-2030, Policy PNP1(f) of the Paignton Neighbourhood Plan, and the NPPF.

### **6. Construction method statement**

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

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

- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Details of site hoardings
- Management of construction associated parking.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, in accordance with Policy DE3 of the Torbay Local Plan 21012-2030. These details are required pre-commencement in order to establish construction parameters that protect against undue impact prior to work commencing.

## **7. Landscape Implementation**

All planting, seeding or turfing comprised in the approved details of landscaping reserved matters pursuant to Condition 01 shall be carried out in full within the first planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing.

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: To secure an appropriate form of development in accordance with policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

## **8. Tree Protection**

Prior to the commencement of development the tree protection measures as outlined within the approved Tree Protection Plan 05077 TPP Rev C 10.01.22 (Aspect Tree Consultancy) and further detailed within the Arboricultural Impact Assessment Report (Aspect Tree Consultancy) shall be implemented in full. The tree protection measures shall then be maintained in full throughout the construction phase unless otherwise agreed in writing by the Local Planning Authority.

Reason: In order to ensure against harm to mature trees, in accordance with Policy C4 of the Torbay Local Plan 2012-2030. These details require implementing prior to commencement to ensure against harm to retained trees.

## **9. Arb Method Statements**

Prior to the commencement of development an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority including detail for the 'no-dig' area. The detail shall make reference to (but not be limited to) to pre-commencement site meeting, signing on of contractors onto the AMS, use of root protection surfaces, and site monitoring timings. The approved detail shall be adhered to throughout the construction phase of the development.

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

## **10. Landscape and Ecological Management Plan (LEMP)**

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

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

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

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

Reason: To secure a satisfactory form of development in accordance with Policies SS8, C4 and NC1 of the Torbay Local Plan 2012-2030 and PNP(c) of the Paignton Neighbourhood Plan.

### **11. Drainage**

Prior to the first occupation of the building hereby approved the development shall be served by the surface water management system outlined within the approved site specific flood risk assessment addendum report dated 6th April 2020, the accompanying surface water drainage layout drawing, number AT2400 01 revision A, and the surface water drainage hydraulic design included within the addendum to the site specific flood risk assessment, unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to installation and prior to the first use of the building.

The approved surface water management system shall be retained and maintained for the lifetime of the development

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030, policies PNP1 and PNP1(i) of the Paignton Neighbourhood Plan, and guidance contained in the NPPF.

### **12. Detailed design**

Prior to installation of each element the following detail shall be submitted to and approved in writing by the Local Planning Authority.

- I. render type and colour
- II. standing seam sample, including colour
- III. door and window frames details, to a scale between 1:1 and 1:20
- IV. reveal depths
- V. window cill details – materials and colour
- VI. details of all external rainwater goods
- VII. details of the location and colour of all meter boxes.
- VIII. Details and location of any render joints
- IX. Details of any fascias and/or bargeboards



X. Details of any external plant such as air conditioning units/ aresource heat pumps etc

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

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

### **13. Detailed design**

All glass balcony and terrace enclosures hereby approved shall be fitted with frameless glass prior to the first occupation of the development, as detailed, and shall be retained in that form for the lifetime of the development.

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

### **14. Detailed Design**

Prior to the first occupation of the development and prior to any works taking place to the front boundary wall a detailed scheme of works to, and enclosure of, the front boundary shall be submitted to and approved in writing by the Local Planning Authority.

The scheme and detail shall include details of works to close the defunct access and works to reform the retained access, to include the rebuilding of the existing piers, and means of enclosure above the wall.

The approved works to the boundary shall be completed as approved prior to first occupation of the development and shall be retained without variance as such for the lifetime of the development.

Reason: To secure improvements to the plot and an acceptable form of development within the Roundham and Paignton Harbour Conservation Area, and for reasons of highway safety, in accordance with Policies SS10, DE1 and TA2 of The Torbay Local Plan 2012-2030, policy PNP1(c) of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

### **15. Parking provision**

Prior to the first occupation of the development details confirming the location and provision of at least 3 electric charging points and 2 demarked visitor spaces shall be submitted to and approved in writing by the Local Planning Authority.

The development hereby approved shall not be occupied or brought into use until the car parking spaces (including the approved disabled spaces and the charging points and visitor spaces approved pursuant to this condition), together with the manoeuvring areas, have been provided in full. These elements shall thereafter be retained and maintained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with policy TA3 of the Torbay Local Plan 2012-2030 and policy PNP1(h) of the Paignton Neighbourhood Plan.

### **16. Cycle provision**

Prior to the first occupation of the development full details of the materials, elevation form, and means of secure locking, of the cycle store hereby approved shall be submitted to and approved in writing by the Local Planning Authority

The cycle store, as detailed within the approved plans, shall be completed and made available for the purpose of cycle storage to serve the development prior to the development's first use. Once provided, the agreed storage arrangements shall be retained and maintained for the life of the development for such purposes.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Paignton Neighbourhood Plan.

#### **17. Waste provision**

Prior to the first occupation of the development full details of the materials and elevation form of the waste and recycling storage facility, as detailed within the approved plans, shall be submitted and approved in writing by the Local Planning Authority.

The approved store shall be completed and made available for the purposes of waste storage to serve the development prior to the first occupation of the development. Once provided, the agreed storage arrangements shall be retained and maintained for the life of the development.

Reason: In interests of amenity and in accordance with policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030 and Policy PNP1(d) of the Paignton Neighbourhood Plan.

#### **18. PD**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 (or any Order revoking or revising that Order) the following forms of development are not permitted, 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;

- No additional or different means of enclosures,
- No gates to the vehicular entrance,
- No additional hardstandings.

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development and outdoor amenity spaces within a restricted site, in accordance with Policies TA2, SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030.

#### **19. Dwelling Use / Small HMO PD**

Notwithstanding the provisions of Schedule 2, Part 3, Class L (small HMOs to dwellinghouses and vice versa), of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), all residential units hereby approved shall be used and occupied solely as Class C3 Dwelling-houses, by: (a) a single person or single household; (b) a single household of not more than 6 residents where care is provided; or (c) a single household of not more than 6 residents, and for no other purposes.

Reason: In order to ensure a satisfactory form of development in accordance with Policy SS11 of the Torbay Local Plan 2012-2030.

#### **20. Ecology**

The development shall proceed in full accordance with the submitted Preliminary Ecology Appraisal dated 11 February 2019 (George Bemment Associates).

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

#### **21. Nesting season - birds**

All demolition and/or the removal of vegetation shall be undertaken outside of the bird nesting season (March-August 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 within an area identified by the ecologist.

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

## **22. Ground clearance - reptiles**

All ground clearance should be carried out with caution in accordance with the recommendations outlined within Para 5.7 of the submitted Preliminary Ecology Appraisal dated 11 February 2019 (George Bemment Associates) and if any reptiles are encountered work should stop and a suitably qualified ecologist should be contacted for advice.

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

## **Development Plan Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS3 - Presumption in favour of sustainable dev  
SS8 - Natural Environment  
SS9 - Green Infrastructure  
SS10 - Conservation and the historic environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1LFS - Applications for new homes\_  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ER2 - Water Management  
W1 - Waste management facilities  
NC1 - Biodiversity and geodiversity

PNP1 – Area Wide  
PNP1(c) – Design Principles  
PNP1(d) – Residential Development  
PNP1(f) – Towards a sustainable low carbon economy  
PNP1(g) – Designing out crime  
PNP1(h) – Sustainable transport

PNP1(i) – Surface water

Application Site Address	Land North of Totnes Road, Collaton St Mary, Paignton
Proposal	Reserved matters relating to P/2019/0281 (Up to 100 dwellings) - relating to (i) layout, (ii) scale, (iii) appearance; and (iv) landscaping.
Application Number	P/2022/0888
Applicant	Cavanna Homes
Agent	AR Land and Planning Ltd
Date Application Valid	22.08.2022
Decision Due Date	21.11.2022
Extension of Time Date	23.01.2023
Recommendation	Approval: Subject to;  Outstanding highway points resolved.  Outstanding drainage points resolved.  Conditions as outlined.
Reason for Referral to Planning Committee	Major Development.
Planning Case Officer	Scott Jones



## **Site Details**

### **Description**

The application site sits to the north of the Totnes Road (A385) and encompasses approximately 18 hectares of what is largely fields but includes an element of previously developed (brownfield) land of approximately 1 hectare that holds two existing buildings and areas of hardstanding. The field system within the site boundary is broken down into 9 fields of varying size. The western part of the site sits behind residential properties along Totnes Road, where 5 fields rise to north towards a hedge and tree lined hilltop. Although largely contained behind the existing frontage development there is a section of the site that fronts directly onto the Totnes Road, comprises a hedge-lined frontage of approximately 64 metres forming a gap between existing residential plots. There is also an access to the existing developed area within the site further east, close to the brow of the hill and the junction with Borough Road. The eastern part of the site (comprising the remaining 4 fields) lies to the north of Borough Park Road, a residential cul-de-sac, culminating to the east where it borders Kings Ash Road. The topography within the eastern part of the site rises from east to west towards the aforementioned hilltop.

### **Local Character & Services**

The existing field system is largely laid to pasture with hedge borders and the occasional small copse. The site is quite steep in places and there is an overall rise of approximately 55 metres from the low points adjacent to the Totnes Road and Kings Ash Road to the hilltop at the northern border of the site.

Across the Totnes Road, to the south there is a public house and to the west there is a parish church and a primary school. Within the wider area there is a secondary school, numerous food retail outlets and a trading estate within relatively close proximity, on the outskirts of Paignton. The general character is a transitional one from an edge of town, residential character to the east to a rural character with more intermittent development (largely residential ribbon development and holiday parks) to the west.

### **Heritage**

There are a number of designated heritage assets nearby and immediately to the south of the site across the Totnes Road lies the Grade 2 listed Collaton Farm building and (converted) barns. To the west, off Blagdon Road there is the Grade 2\* listed Church of St Mary, Grade 2 Old School House and Old Vicarage, and a further four Grade 2 listed properties, 391-397 Totnes Road.

### **Development Plan**

In terms of the Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area and is also a site identified for housing within the Collaton St Mary Masterplan, which is an adopted Supplementary Planning Document for the area (adopted February 2016). The Paignton Neighbourhood Plan does not allocate housing sites and hence is silent in terms of designation, however Policy PNP24 does cite that within Collaton St Mary further development beyond the currently developed areas will be supported where the proposals are in accordance with the adopted masterplan for the area. In terms of other relevant context the valley floor to the south of the site is a linear area with an identified risk of flooding, and the site sits in the Sustenance and Landscape Connectivity zones associated with the South Hams Special Area of Conservation (SAC)(Greater Horseshoe Bat).

## **Description of Development**

This is a reserved matters application that is seeking approval for the layout, scale, appearance and landscaping for 100 dwellings following the grant of outline consent under application reference P/2019/0281 for up to 100 dwellings. The outline consent granted detailed access with the creation of a single vehicular access off the Totnes Road (A385) east of the existing zebra crossing.

In accordance with the outline consent the proposal is for 100 dwellings offered in the development area presented in the indicative plans submitted and considered at outline stage. The dwellings are again focused within the lower part of the site, up to a line roughly in line with the rear boundaries of the dwellings off Borough Park Road.

In terms of layout the proposal loosely respects the indicative layout at outline stage with the approved single access filtering off to a network of roads across the hillside. The precise layout has changed however with a stronger east-west emphasis across the hillside. The reserved matters include public elements identified at outline stage, with orchards, allotments and an equipped play space towards the western end of the site.

In terms of form the buildings are generally two-storey with pitched roofs, although there is a larger apartment block towards the eastern end of the site that is three-storeys containing 8 units.

The scheme is substantially one of detached dwellings with 68 out of the 100. The remainder are provided in a number of short terraces, that provide 20 units, with 4 semi-detached dwellings, together with the 8 apartments.

The proposal includes the provision of 30 affordable units in accordance with the outline consent.

Materials are varied through the scheme. There are 3 roof materials with a mix of concrete roof tiles in a smooth 'slate' grey, brown and farmhouse red (curved) roof tiles. Elevations are a mix of rough render, red brick and smaller elements of tile hanging or timber cladding.

All dwellings are supported by parking which is a mix of driveway and garages, or courtyard or street-edge parking.

## **Pre-Application Enquiry**

DE/2022/0034: Reserved Matters for 100 dwellings: generally supportive, concerns raised in terms of overall character of the scheme in a rural context.

## **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
- Collaton St Mary Masterplan
- Setting of various listed buildings, including the Grade 2\* Church of St Mary.
- 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/2019/0281: Outline application: Development of up to 100 dwellings, including affordable and market housing. Associated landscaping, open space, drainage and highways infrastructure at Land North of Totnes Road together with new access onto Totnes Road. Approved with legal agreement.

### **Summary of Representations**

32 submissions, 2 support, 29 objections, 1 neutral. The summary of concerns is as follows;

Reasons for objection relevant to this Reserved Matters application for layout, scale, appearance and landscaping:

- Doesn't detail electric vehicle charging
- Doesn't improve sustainable transport modes
- Doesn't improve infrastructure
- Removes trees, we should be increasing tree planting
- Flooding concerns
- Doesn't integrate well
- Impacts established rear access to property
- Impact on riparian rights to groundwater
- Impact on dark skies
- Should ensure renewables are used
- Impact on ecology and biodiversity
- Access shouldn't be provided to Borough Park Road
- Poor design
- Overdevelopment

Reasons for objection not relevant to this Reserved Matters application for layout, scale, appearance and landscaping:

- Impact on services such as schools, health etc.
- Access
- Traffic
- Loss of green fields
- Sewage capacity
- Affordability
- Carbon produced by the housing

### **Summary of Consultation Responses**

#### **Paignton Neighbourhood Forum**

No comments.



### **Torbay Council Housing Strategy and Enabling Officer**

The affordable housing units on the affordable housing scheme plan submission are consistent with the s106 provision. I am happy with the spacing and layout of the affordable housing in the context of the overall layout and the distribution affordable housing tenure types.

A minor concern is that from a RP's perspective the rental unit types should be consistent by tenure (ie social and affordable rent). To that end I suggest switching Plot 12 to social rent and Plot 14 to affordable rent with reference to the affordable housing plan.

### **Ecology Advisor (Devon County Council)**

14.12.2022 revised comments: The proposal is now acceptable on ecology grounds subject to conditions.

### **Natural England**

No Objection. Based on the plans and mitigation measures submitted, Natural England considers that the proposed development will not have significant adverse impacts on the South Hams SAC greater horseshoe bat (GHB) population and has no objection.

### **Green Infrastructure Manager (SWISCo)**

15.12.2022 revised comments: Further to a review of the amended landscape proposals and with reference to P05 and associated suite of landscape documents comments are below.

Western boundary - concerns over the use of the phrase 'existing vegetation to be retained where possible'. This is too vague and boundary treatment works should be included to show the level of works to be carried out to the boundary edges and how the footpath to the lower western boundary is to be installed minimising the impact on the adjacent trees.

Northern POS - Replication of the comment above, concerns over the use of the phrase 'existing vegetation to be retained where possible'. This, again, is too vague. where management proposals are required for the area then these should be included.

Eastern boundary - The hedge is shown to be retained but any boundary treatment works to the hedge in terms of its management should be included.

Southern boundary - The entrance has been strengthened by the introduction of the trees at the entrance to the site. The use of *B. jacquemontii* should be reconsidered. Given the rural nature of the site there is room along the southern boundary for the use of the native Silver birch to be planted.

Residential area - The inclusion of trees adjacent to some of the roads is welcomed to break up the massing of the development. The central internal road (east to west) could be bolstered further with the inclusion of street trees. Consideration will need to be given to the use of underground structural tree pits to provide sufficient soil volume for the trees to develop.

However, there should be space afforded to larger canopy trees where possible. Much of the internal landscaping is for upright or fastigate tree varieties to be installed. For future resilience and to continue the rural feel of the site space should be created to enable large canopy trees to be planted.

In essence many of the previous issues have been addressed but we require greater level of detail and a consideration to street tree planting using underground structural pits.

Document 2447-18 Rev1 Refuse Strategy Plan shows both storage and collection points for recycling, food waste, refuse. For some properties this seems to be incomplete – for example the storage location for plots 25, 26 and 27 does not appear to be indicated on the plan. It would be useful if the applicant could mark the plot number that each storage and collection location relates to, so that we can ensure that this has been considered for every dwelling at this development. Containers will need to be presented at the curtilage of each premises on the day of collection.

We note that the dead ends have been tracked with a refuse collection vehicle, but would like to enquire about whether there will be no parking in turning areas with road markings to prevent this.

A flat and even surface between all collection points and the adopted highway will be required to wheel bins across and facilitate safe and efficient collections.

It would be useful if the collection point could be moved as close to the public highway as possible for plots 8, 9, 10 and 11 so that the containers are as accessible for collection as possible.

The collection point suggested for plots 58-61 is adjacent to the private drive rather than the adopted highway and SWISCo will not drive on to unadopted highway to collect recycling, refuse and garden waste, unless we are formally indemnified against damage to the road.

Either the collection point would need to be moved to the point where the highway is adopted, or a formal indemnity would need to be in place before collections could start.

*(Officer comment: revised plan 2447-18 Rev C addresses the comments)*

**Drainage Engineer (Torbay Development Agency):**

14.12.2022 Revised comments: Further to the email dated 8th December:

1. The developer has now submitted details of how the 1 in 10 year Greenfield run off rate has been calculated and I can confirm that the discharge rate of 9.3l/sec complies with the requirements of the Torbay Critical Drainage Area.
2. As with my previous consultation response, a number of drawings showing the proposed surface water drainage for the development has been included within the support documentation however this only relates to the main sewer system within the highway together with the attenuation tanks and storage pond. It is agreed that drawing number DR-CD-400-1 Revision P01 shows the private drainage serving each property however these pipes have not been included within the hydraulic modelling. As previously identified all of this information is required to be included in order to confirm that the proposed surface water drainage has been designed in order that no properties on the development are at risk of flooding and there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.
3. In order to check the hydraulic model the developer must supply a drawing showing the proposed contributing areas discharging to each individual pipe length within the hydraulic model. This is required in order that the input data to the hydraulic modelling can be checked against the submitted drawings. The impermeable area drawing recently supplied shows only the impermeable areas discharging to the pipe lengths on the main sewer system within the highway, as previously identified the system needs to be expanded to include the private drainage serving the properties and hence the impermeable area drawing must show the impermeable area discharging to each pipe length in the model.

4. Drawing number DR-CD-400-1 revision P01 identifies the proposed drainage and includes manhole cover, invert levels and pipe lengths for the main sewer system only. The developer must submit a drawing showing the proposed surface water drainage (main sewers and drainage serving properties) including all manhole cover levels, invert levels, pipe diameters, pipe lengths, pipe gradients and the pipe numbering used within the hydraulic modelling. This is required in order that the input data to the hydraulic model can be checked against the submitted drawings.

5. Details regarding the attenuation pond and attenuation tank together with manhole access locations have now been submitted.

6. The latest information that has been submitted does not address the issues highlighted previously with regards to the invert level of the attenuation pond being higher than the ground level of the existing properties in Totnes Road. The developer must demonstrate that the construction of this attenuation pond and surface water drainage will not increase the risk of flooding to these properties.

7. Within the latest hydraulic modelling that has been submitted, there is still no manhole schedules and therefore I am unable to check the manhole cover and invert levels identified on the drawings with the input data to the hydraulic modelling.

8. Items 8 and 9 of my previous consultation response have been addressed within the latest submitted information.

9. At present I am unable to confirm whether the surface water drainage has been designed in order that no properties on the development are at risk of flooding for the critical 1 in 100 year storm event plus 50% for climate change. In addition, the surface water drainage system must be designed in order that there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.

Based on the above comments, before planning permission can be granted the applicant must supply the details requested above.

*(Officer comment: Further detail has been submitted that seeks to address the points raised and is currently being considered by the Councils drainage engineer).*

### **South West Water**

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water sewerage network is acceptable and meets with the Run-off Destination Hierarchy.

Update comment 23.12.2022 correcting referral to another site: I hereby confirm that the presence of the water main has no bearing on foul and surface water drainage for the application site, and that South West Water has no objection, subject to the surface water being managed in accordance with the proposed drainage strategy.

### **Police Designing Out Crime Officer**

From a designing out crime, fear of crime and anti-social behaviour perspective, please find my advice and recommendations below.

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority the following is to inform the applicant:-

ADQ creates security requirements in relation to all new dwellings. All doors that provide entry into a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24.

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors and windows Accredited Product Search for Windows are not only tested to meet PAS 24 (2016) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

Concern on access behind the first two rows of houses. Side of plot 72 could be restricted. Most houses benefit from good natural surveillance but a few are more isolated re access points. Allotments are quite isolated but would benefit from the nearby houses if their fronts are active. Welcomed that rear gardens are enclosed to 1.8m high. Request gates are lockable in both directions. Communal access routes should be gated as well. Public and private spaces should be clearly defined, and rear of plots 62-71 could be bolstered with landscaping. Parking spaces should be demarked, communal spaces shouldn't rely on bollard lighting for security reasons. The amount of tandem parking does cause a concern as it is likely that from a practical and convenient point of view only one of the spaces will be used meaning that they are likely to park elsewhere which can create vehicle and parking related problems which the police can spend a lot of time dealing with.

### **Highway Authority (Swisco)**

14.12.2022 – Update comments

#### **Emergency Access**

At the Outline Application stage there was some discussion regarding the implementation of an Emergency Access with the Highway Authority suggesting that the road to the south of the sub-station being used (shown in the snip below). The applicant has pushed back on this and therefore the Highway Authority stance would be, as supported by the Torbay Highways Design Guide, that if no Emergency Access is provided then the development (and any future development) is limited to the 100 dwellings proposed. An additional dwelling will trigger the requirement for an Emergency Access. It is suggested that the applicant make provision for an Emergency Access (3.7m wide).

#### **Ransom Strip**

The applicant has noted that it is not feasible to take the road to the northern/eastern boundary due to issues with levels. The adoption does not necessarily need to form a metalled surface, it could form hedges etc. It is important to ensure this continuous adopted link to ensure there is no ransom strip and to enable active travel routes are maintained.

#### **Link to Blagdon Road**

The applicant has confirmed in the email below that this will be adopted – this is considered acceptable. However, the applicant will be required to confirm if this incorporates a HMPE pedestrian/cycle link.

#### **Borough Road**

The applicant will be required to confirm if they plan to adopt the link to Borough Road as this does not seem to be shown on the plans. It is requested that the applicant submits a red line Highway Adoption Plan so that all proposed adoption is clear.

## Car Parking

The applicant should note Part H, Appendix F of the Torbay Local Plan (2012 – 2030) and confirm that, where car parking spaces are accessed directly from the Highway these should measure 3.2m x 6m to ensure that the Highway is not obstructed. The applicant will be required to confirm that these dimensions have been met. The applicant will also be required to confirm that, for dwellings that have two car parking spaces, that a bin can safely be wheeled past a parked car to the front of the dwelling. This is to ensure that overspill parking does not occur and block footways.

## Footways

The applicant will be required to ensure that continuous footways are provided throughout the site.

## **Planning Officer Assessment**

1. The Principle of Development,
2. Design and Visual Impact,
3. Open Space and Landscaping,
4. Heritage Impacts,
5. Residential Amenity,
6. Highways, Movement and Parking,
7. Ecology,
8. Flood Risk,
9. Low Carbon Development,
10. Affordable Housing,
11. Housing Supply.

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

Outline consent has been granted for up to 100 dwellings pursuant to planning permission P/2019/0281. This has established that the principle of 100 dwellings served off an approved detailed access arrangement off the Totnes Road is acceptable. This Reserved Matters application is solely to consider the Layout, Scale, Appearance and Landscaping, as the principle and the vehicular access has been established.

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 principle of housing has been established through the outline consent. In terms of determination of applications for housing the 'tilted balance' guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. In regard to applying the 'tilted balance' it is relevant to note that there are heritage considerations due to the site sitting within the setting of a Grade 2\* Listed Church and other Grade 2 listed buildings. As concluded within this report there are no heritage reasons that provide clear reason for refusing the application, so the 'tilted balance' is considered applicable. This guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Notwithstanding the NPPF and the 'tilted balance' guidance, this does not displace

the primacy of the Development Plan.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering strategic policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, and the Development Plan as a whole, subject to other material considerations, which will be discussed in more detail below.

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

The NPPF states (Paragraph 126) that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve and furthers that good design is a key aspect of sustainable development. Several expected design outcomes follow in Paragraph 130 and the Framework furthers, in Paragraph 134, that development that is not well designed should be refused.

There is consistency with the NPPF across Local Plan Policies SS2 (Future Growth Areas), SS11 (Sustainable communities) and DE1 (Design). Policy SS2 seeks development to integrate with existing communities and reflect landscape character, Policy SS11 states that development must help to create cohesive communities within a high-quality built and natural environment. The policy also includes expectations for development to help develop a sense of place and local identity, deliver development of a type, scale, quality, mix and density appropriate to its location, and protect and enhance the natural and built environment. Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

In terms of further policy context design outcomes are also prominent within the Paignton Neighbourhood Plan with PNP1 (Area Wide) including reference to enhancement of local identity, PNP1(a) citing the importance of development responding positively to its context when in the Rural Character Area, PNP1(c) again identifying the importance of strengthening local identity, and PNP19 (Safeguarding the open countryside) and PNP24 (Collaton St Mary) both express the importance of sensitive development within the rural context.

### **Scale**

The development broadly follows the outline proposals and keeps development within a classic domestic scale. All dwellings are two storeys with pitched roofs, but there is a single apartment block that is 3 storeys under a pitched roof.

The outline application presented 2-storey development through the scheme, which was amended to suggest split level development within the uppermost properties. This was to address concerns on the creep of development up the hillside slightly beyond the line of development suggested within the adopted Collaton St Mary Masterplan. The reserved matters submitted deviates with 2-storey development at the top of the site and through the provision of a 3-storey apartment block.

By not reducing the uppermost properties the extent of development is likely to be more prominent from certain views outside of the site and will likely mask more of the undeveloped hillside above.

The reserved matters are accompanied by a landscape and visual impact assessment that concludes that the reserved matters proposals would not bring forward any additional harm to either landscape character (locally or wider area) or visual amenity than that initially identified through the outline scheme. However little weight can be attached to the assessment as it draws its conclusions from superseded section detail from the outline proposals. It does not

use the baseline of the expectation of split-level properties on the uppermost area of development with a lower indicative ridge height, using an expected central ridge height of 66.3 above datum compared to 62.5 above datum on the amended section. The visual prominence and impact of the development is likely to be greater than concluded.

In terms of the variance in scale brought about by introducing a 3-storey apartment block the landscape and visual impact assessment does refer to this element being sensibly located within the lower section of the site. There is general agreement with this conclusion.

All matters considered there is some concern on the uppermost dwellings and hence the development being more prominent on the hillside, however broadly the scale of buildings is considered acceptable and is supported.

## **Layout**

In terms of the layout the proposal is broadly respectful of the outline information. The basic principle of a 'network' of roads on the lower slopes and public open space and community facilities to the western edge and upper slopes accords broadly with the indicative layout submitted at outline stage.

In terms of basic principles, the development pattern leans heavily on perimeter development which presents active street frontages and overlooked public spaces, and private back-to-back gardens that offer secure and enclosed gardens. Perimeter development is supported as a broad urban design principle for the reasons stated.

In terms of the detail the layout presents a greater emphasis to streets being formed across the hillside, with three east-west roads presenting most of the dwellings. The rise in levels between streets is largely managed by the provision of retaining walls along the line of the rear back-to-back boundaries. These range from low walls to around 3m in height, with circa 2m generally prevalent. Fencing is proposed on the upper side of the retaining walls and the proposed landscaping shows intermittent tree planting within the rear gardens on the lower sides. The network of retaining walls and fencing is likely to be visible to some degree in the public realm either through medium length views or shorter views through and across within the site. They are likely to be a detracting feature due to their extent and regularity in terms of a heavily engineered and quite suburban element.

In terms of the street pattern the buildings and building lines are relatively regular and present quite a formal and suburban influence. The scheme leans heavily on detached dwellings and there is a regularity to the plot arrangement, including parking and garaging. The building lines enclosing the streets are also relatively regular, which would appear influenced by the restricted depth to plots borne from managing the rise in levels from south to north. In terms of the character of streets there is some curvature that does offer some informality to the layout, but this influence alone would not substantially alter the overall suburban character of the layout. Overall, the plot and building arrangements are deemed relatively suburban and are a relatively un-contextual response to the rural setting of the site.

All matters considered the layout and detailed arrangement of buildings and streets presents some concern in terms offering a relatively regular suburban form of development. The influence of layout on the overall character needs to be considered in the round, taking into account other elements of the development that influence the overriding character.

## **Appearance (form and materials)**

There have been various amendments submitted through the course of the application in response to officer concerns raised on the overriding character of the development as a response to the rural context.

A suite of revised plans and supporting information submitted in November (2022) introduced a character area concept aimed at breaking down the scale of development into smaller areas with different characters. The character area concept presents four character areas, village, village 2, farmstead and rural. The two village characters areas cover the entrance and the central east and western areas, the farmstead and rural covering the southern, western and northern outer fringes.

The character area concept proposes different treatment of similar housing types within the development to project a concept of character change. For example similar house types within the village areas may be either rough render or red brick, whereas the similar house type within the farmstead area would introduce partial tile hanging or partial timber cladding, plus relying on more subtle difference in window arrangement and minor details.

From the character area concept there is, broadly, variation in materials that offers some welcomed interest through the scheme, whilst appreciating that the buildings and overall arrangement of buildings are similar.

In term of materials there are three roof finishes, all concrete, offering a 'slate grey', brown and some red tiles. A leaning towards dark roof finishes is welcomed in the rural context. The materials are concrete, and this represents some conflict with the rural context where natural materials would be a more positive response. The use of concrete over natural materials sits at odds with the expectations of Policy PNP1(c) of the Paignton Neighbourhood Plan and it is recommended that these elements are not agreed and should be reconsidered in further detail via a materials condition.

In terms of elevations the use of rough render over smooth render is considered positive for the rural context, and the use of a number of soft colour tones across the rendered properties presents some welcomed informality to the development. Red brick is considered an acceptable secondary material and again helps present some diversity within the scheme. The use of a number of red bricks, with different tones and textures, will help add some variety through the scheme. The use of hanging tiles and timber cladding is welcomed, subject to materials choice, again in terms of adding variety and reflecting rural character. The absence of stone within the building form, either as a base material or as a feature detail is deemed a missed opportunity considering the prevalence of stone locally.

In terms of architectural details there is a mixture of dwellings with and without chimneys, and chimneys are considered to present some visual enlightenment to the roofscape of the development. In terms of further roof detail there is a mixture of simple gabled and hipped roof forms, and more intricate roof forms with large and small gable features. The gables features, certainly the smaller ones, do offer some reference to the local context where several character dwellings feature such detail.

In terms of other elements of the built form the boundaries to plots and the public realm have been revised a number of times in order to try and address officer concerns regarding the detail and a suburban feel to this element of the scheme. The latest iteration has removed the majority of the 'suburban' open plan plots, enclosing most plot frontages with a mix of either hedges or railings. Prominent side boundaries that address the public realm are now either stone or rough render, with fencing removed as a solution. Stone has also been added to enclose the parking courts, with stone piers details included. In addition hedges have been added to the rear of plots where they address the public realm as a screen to soften proposed fencing. Hedging has also been added to enclose and soften the private drive in the northeast corner of the development that presents a prominent boundary with the public realm. The current boundary proposals are considered acceptable as a response to the context.

All matters considered the proposed layout, scale, form and materials, with consideration of



the proposed landscaping, is considered to present a form of development that, on balance, adequately acknowledges and responds to the rural context, subject to satisfactory resolution of the stone, roof and hanging tile material. For the reasons above the development, with improved materials, would be deemed to be well designed, as required by the NPPF, and is considered to accord with the Development Plan design-based policies when read as a whole, notably Policies SS2, SS11, DE1, DE4, NC1 and C4 of the Torbay Local Plan, and Policies PNP1, PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

### **3. Open Space and Landscaping**

Landscaping is a key component of placemaking and in a rural context is an important influencer of character. The importance of contextual and effective landscaping is highlighted within the NPPF within Chapter 12, Achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character (Paragraph 130). The NPPF also makes reference to the important contribution of trees to the character and quality of urban environments (aside benefits of adapting to climate change) and states that decisions should ensure that new streets are tree-lined, that other opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), and that existing trees are retained wherever possible.

At a local level the Development Plan seeks high quality landscaping in Policy DE1 and Policy C4 states that development will not be permitted where it would seriously harm protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The policy also states 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.

Policy PNP1(c) of the Paignton Neighbourhood Plan includes relevant references to development proposals, where possible, retaining existing natural features, and furthers that hedgerows should be provided to at least one boundary and also should include tree planting, being encouraged to plant 3 new trees for each dwelling.

The development features extensive informal open space on the upper slopes in accordance with the outline consent. This includes a linear replacement Devon Bank hedge boundary that runs east-west across the hillside. To the western end of the site there is an orchard, allotments and a locally equipped area of play, again in accordance with the outline consent. In addition to these features adjacent to the southern boundary there is a linear landscaped 'trim trail', which is an additional feature to that expected from the outline plans. The various open landscaped public areas provide are positive elements of the scheme.

Within the developed area revised plans have strengthened the presence of trees along the rear plot-to-plot boundaries across the east-west hillside. There has also been some reworking of the central north-south and east-west streets to try and address officer concerns regarding the robustness and general character of these streets. There is however limited space within the public realm and hence planting is largely limited to hedging, shrubs and occasional trees that are not of significant scale in terms of their potential growth. Within the development it is unlikely that trees will breach the roof lines and present landscaping of wider significance that also breaks up the extent of development as experienced from outside of the site.

The latest plans have been reviewed by the Councils (Swisco) Green Infrastructure Manager and it is accepted that many of the previous issues have been addressed. However, there is still concern on the level of detail and consideration to street tree planting using underground structural pits that should be explored further. The main concern is that there should be space afforded to larger canopy trees where possible. There is also still concern on uncertainty regarding vegetation marked as 'retained where possible', as it should be known, and should

be explored further and determined either way. A planning condition is proposed within the proposed schedule, which also covers a minor detail concern on species choice around the entrance.

As matters stand the landscaping has been improved however the central element of the scheme presents opportunity for only limited planting. In terms of presenting a rural character there is a degree of imbalance within the central spine with planting more incidental than what should be expected in a rural environment.

It is recommended that the issues raised within the landscaping comments received 15.12.2022 can be addressed via planning conditions. With these matters addressed the scheme would be largely consistent with the national 'build beautiful' agenda outlined within Section 12 of the NPPF, and would be consistent with Paras 126, 130 and 131, and also be considered acceptable and compliant with Policies DE1 and C4 of the Torbay Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

#### **4. Heritage Impacts**

The site does not hold any listed buildings or structures, nor is it within the boundaries of a designated Conservation Area. However, to the west off Bladgon Road there is the Grade 2\* Parish Church of St Mary and Grade 2 Old School House and Old Vicarage buildings. There are also further Grade 2 listed properties set off the Totnes Road. The development does sit within the setting of these listed buildings, where there are direct views and/or where there is a kinetic experience of their settings as you pass through Collaton St Mary. Hence impact on their settings needs to be duly considered.

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

In terms of the local Development Plan it is guided that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

In terms of what is possibly the most sensitive relationship, with the church and the organic cluster of surrounding historic buildings, their rural character and setting is currently largely retained, with the surrounding green fields reinforcing the relationship between the church and the rural hinterland and ultimately how it is experienced as a rural village church. It is likely that the development and church will be experienced as you pass through the area, but views of the development are likely to be muted by the existing dwellings facing Totnes Road, as they themselves sit on higher ground, and where the southeast corner acts a landscaped buffer through which a pedestrian route is to be formed.

In terms the listed farm buildings near to the proposed entrance, the development will be large

screened behind existing properties and the entrance created will retain and reform the stone wall into the site. The entrance will also be landscaped. This will present a suitable rural character that would not impact the setting of the listed buildings.

All matters considered the detailed reserved matters are considered adequately resolved to limit the impact up on the setting of these, and other, listed buildings in the area. This considers the conclusion on design and visual impact, and landscaping, in Sections 2 and 3 of the Planning Officer Assessment within this report. However, there will be an inherent urbanising impact from the development and certain views and the general experience through the area will be impacted. As the scheme is considered suitably resolved the scale of harm is deemed less-than-substantial.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset the NPPF guides that the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202).

In this instance the public benefits being the provision of up to 100 dwellings, of which 30 will be affordable, in addition to the delivery of construction jobs and the resultant households and their expenditure within the local economy. Also, there is the provision of public play space, allotments and orchards to consider. Overall these public benefits are not insubstantial. Officers are also mindful that the site is identified for housing and the principle of housing is not objected to per-se, which would naturally present some change to the character of the site.

On balance, with a less than substantial level of harm, when considering the Development Plan and the NPPF, and the public benefits, the development is considered suitable for approval in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 199, 200 and 202 of the NPPF.

In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

## **5. Residential Amenity**

The Torbay Local Plan contains policies to ensure that appropriate residential standards are achieved in residential schemes, including size standards, through Policy DE3, and that development meets the needs of residents and enhances their quality of life, through Policy SS11. The Paignton Neighbourhood Plan, in Policy PNP 1(d) (Residential Development), presents guidance on supporting elements required for residential units and the NPPF (Para 130) 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

### **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. All are well spaced and provide good natural lighting to key habitable rooms and good outlooks. Internal privacy is duly offered with adequate back-to-back distances between dwellings or outlooks to landscaped borders. There

will be some natural overlooking of gardens, but this is commonplace within residential environments and there are no unacceptable, i.e. overly dominant, relationships. In terms of the internal living spaces all houses and apartments meet the national internal living spaces standards that are engrained within the Development Plan (Policy DE3) and support the concept of producing, in the round, a good level of amenity for future occupiers. Each dwelling is afforded adequate amenity space that exceeds the 55sqm expected within the Development Plan. The apartments, following revised plans, will be afforded communal space to the east that exceeds the 10sqm per flat expectation in the Development Plan.

In terms of ancillary elements of parking, cycle parking and waste storage the following is considered.

All of the detached and semi-detached dwellings have 2 parking spaces in accordance with the expected level of parking outlined in the Development Plan. The vast majority also benefit from a further garage space/s and a number of the larger units have driveway parking for more than 2 vehicles. The three pockets of terraced units are served by either courtyard parking or street-side parking. Plots 25-30 are provided with a policy compliant level of courtyard spaces. Plots 8-14 as a group do not meet policy standards with 4 of the 7 units having only 1 assigned space each. There are however 2 visitor spaces within the courtyard that could be assigned and there are a further 6 visitor street-side spaces across the southern road that could possible offer assigned spaces to ensure all units in this group have a policy compliant level of private parking. Plots 82-88 are provided with a run of street-side parking and latest revised plans show that there is a policy compliant level available of two spaces each. Within the apartment block, Plots 74-81, through revised plans now show that all units have at least 1 space in accordance with the level expected in the Development Plan and there is 1 visitor space.

In terms of electric car charging facilities the Development Plan expectation is for all dwellings and 20% of apartments to have such facilities. Charging points are detailed for most dwellings as shown within the submitted parking layout plan. There is uncertainty on access for all dwellings within the three pockets of terraced units and this should be given more thought. This can be secured by a planning condition. In terms of the apartments there is a point shown within the rear parking court.

Waste storage is detailed to the rear gardens and there are collection points marked on occasions where necessary due to the arrangement. The apartments have a formal area, but the form is not detailed on the elevation plans for the building. Acceptable understanding and details of the form and materials of this structure should be secured by a planning condition.

In terms of cycle parking the Development Plan expects dwellings to be afforded with 2 spaces and apartments 1 space. Where dwellings are afforded a garage as a third space the facility is considered adequate to be considered as providing cycle parking possibilities. Elsewhere details should be sought on the location and form of cycle parking to meet the standard above. This can be secured through a planning condition. At present there is an absence of detail for the terraced properties and a pair of semi-detached that do not benefit from garages, and the apartment units.

In terms of designing out crime Policy PNP1(g) of the Paignton Neighbourhood Plan expects all developments to show how crime and the fear of crime have been taken into account. In terms of consultee comments it is noted that the Police Designing Out Crime Officer has raised comments including certain boundary positions and advice on plot security. It is recommended that a planning condition is attached to secure details on how the development responds to Secured By Design.

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 Policies SS11, DE1 and DE3 in the Torbay Local Plan, PNP1(d) of the Paignton Neighbourhood Plan, and advice contained within the NPPF regarding creating good quality living environments.

### Adjacent Occupiers

The site does directly border residential properties to the south and east but due to the layout proposed, the distances and natural separation afforded by landscaping the development will not impact the amenity of adjacent occupiers. Construction impacts will be duly managed through Condition 2 of the outline consent, which requires a Construction Method Statement to be submitted to the Local Planning Authority and approved prior to the commencement of development.

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.

Public representation has raised concern on the impact on establish vehicular access rights over a lane and rights of access to groundwater. The applicant has engaged with the parties involved and they have stated that no evidence has been provided on these points, and that there are no rights registered against the land in the applicant's title. The applicant's view is that these are private legal matters (alleged) and they fall outside of planning matters to be considered. The Council's legal advice is that these are essentially private legal matters to be resolved between the applicant and the adjoining landowner.

## **6. Highways, Movement and Parking**

### Vehicular Access

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

### Connectivity

The outline proposal established the benefit for a pedestrian/cycle route linking the development towards Borough Park Road to the east. This would offer clear connectivity benefits for the general community. A link to the edge of the site is shown on the submitted layout. In addition, again as expected through the outline plans, there is a pedestrian/cycle link at the southwest corner of the site that links to the junction of Totnes Road and Blagdon Road. Supporting this there is a clear pedestrian/cycle route within the site along the southern border. This presents opportunity for movement patterns to and from the school (for example) to use an improved route over the existing generally inhospitable section of the Totnes Road adjacent, which has narrow pavements and suffers from on-pavement parking. There is also connectivity to the northern public open space detailed in the plans.

The connectivity is well considered and sits as a positive aspect to the scheme.

### Internal Road Network

The proposed network is generally considered acceptable and would support the provision of well-connected and overlooked public roads and spaces, presenting an attractive environment.

The Highway Authority has raised several points for clarification, the main point in terms of layout being an expectation to ensure that continuous footways are provided throughout the site. As detailed there are areas without footways and clarification has been requested as to whether the layout as submitted is considered to present an adequately safe highway network.

The proposal, subject to the satisfactory resolution of minor design matter raised by the Highway Authority, is considered to present an acceptable road layout.

### Car and Cycle Parking

As previously detailed in the Residential Amenity section of the Officer Assessment most dwellings have at least 2 off street parking spaces or 2 assigned spaces within courtyards or within parking runs immediately adjacent. There are however some areas where parking standards are not met which should be explored and resolved. Importantly there appears scope within the current layout to provide a policy compliant level of parking by reassigning existing spaces.

Similarly electric charging is largely detailed to an acceptable level but there is some conflict with the policy expectation for the terraced dwellings. Further detail should be sought to ensure provision accords with the Development Plan expectations for all dwellings.

In terms of cycle parking the Development Plan expects dwellings to be afforded with 2 spaces and apartments 1 space. Where dwellings are afforded a garage as a third space the facility is considered adequate to be considered as providing cycle parking possibilities. Elsewhere details should be sought on the location and form of cycle parking to meet the standard above. This can be secured through a planning condition.

The proposals are, subject to the satisfactory resolution of the provision of footways and the details suggested above, considered to present an acceptable layout in terms of layout and movement, in accordance with Policies DE1, TA1, TA2 and TA3 of the Torbay Local Plan, Policy PNP1(h) of the Paignton Neighbourhood Plan, and the NPPF.

## **7. Ecology and Biodiversity**

The ecological context was duly considered when the outline consent was granted, to ensure that protected species and habitats would not be unduly harmed and that biodiversity aspirations could be met, in accordance with guidance contained within the NPPF and the Development Plan, notably policies SS8, SS9, NC1, C4 of the Local Plan and PNP1, PNP1(a) of the Paignton Neighbourhood Plan. Outline consent was granted subject to reserved matters including certain detail.

1. A Lighting Assessment to demonstrate compliance with the 0.5 lux design parameter set out in the Shadow HRA (Condition 2).
2. Details of a proposed bat roost (Condition 3).
3. A Landscape and Ecological Management Plan (CEMP)(Condition 4).
4. A Landscape and Ecological Management Plan (LEMP)(Condition 5).
4. A monitoring strategy to provide early warning of any change in site conditions that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary (Condition 6).
5. Measures to enhance biodiversity (Condition 11).

The application is supported by the following documents and plans, which respond to the requirements of the conditions attached to the outline consent in terms of details to be submitted:

- Lighting Impact Assessment
- Construction Environmental Management Plan
- Landscape and Ecological Management Plan
- Ecological Enhancement Plan
- Greater Horseshoe Bat Monitoring Strategy
- Biodiversity Metric Assessment

- Bat roost details

The ecology detail has been considered by Devon County Council ecologist and following revised detail received through the course of the application the application is considered acceptable on ecology grounds subject to conditions, in accordance with comments received 14.12.2022. Comments request a number of conditions however compliance with submitted and approved documents are secured through the outline planning permission and hence no further ecology-based conditions are considered necessary.

The development is deemed to accord with policies SS8, SS9 and NC1 of the Torbay Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan.

## **8. Flood Risk**

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 Paignton Neighbourhood Plan offers similar plan-wide aspirations in Policy PNP1(i) and area-specific aspirations are offered in Policy PNP24.

Flood risk was considered at outline stage with an accepted outline strategy. The outline consent was subject to a planning condition requiring future reserved matters to demonstrate that the risk of flooding would not be increased, in line with the design parameters outlined within the previously submitted and approved Flood Risk Assessment.

The application is supported by detailed drainage plans and supporting information for a scheme that attenuates surface water run-off on site within a series of attenuation tanks under the central north-south break within the development (car parking area and public route) and under the linear greenspace close to the southern boundary. These act as on-site holding basins for surface/storm water and the proposal is then to discharge the attenuated water at a controlled rate equivalent to undeveloped 'greenfield' runoff to the nearby Public Sewer.

South West Water raise no objection.

The Council's Drainage Engineer has reviewed the proposed surface water proposal and does not object to the means of disposal, i.e. a controlled discharge to the Public Sewer. Although there is no objection to the strategy and design parameters there is various technical detail requested by the Council's engineer to ensure that the detailed scheme is acceptable. A second response on outstanding matters has been submitted on the remaining points raised and is currently being considered by the Council's drainage engineer with an expectation that conclusions will be offered prior to the committee meeting.

If the matter is pending or under consideration officer advice is that resolution can be delegated to officers, with any positive resolution subject to securing a scheme supported by the Council's drainage engineers. The pursuit of the outstanding technical data will not change the layout or physical form of the development, which informs the recommendation that the decision on the reserved matters more broadly can be progressed on a 'subject to' basis.

Subject to the receipt of technical information that removes any uncertainty on the detailed design, and delivers a surface water drainage that would not increase the risk of flooding, the development is considered acceptable on flood risk grounds, and would accord with Policies ER1 and ER2 of the Torbay Local Plan and policy PNP1(i) of the Paignton Neighbourhood Plan.

## **9. Low Carbon Development**

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. ES1 also states that the retrofit of energy efficiency measures to existing buildings will be encouraged and supported, and that opportunities for reducing carbon emissions associated with energy use will be sought through the development management process as part of the wider conversion/ refurbishment of buildings where planning permission is required.

In terms of the Paignton Neighbourhood Plan Policy PNP1(f) 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 NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Low carbon and energy aspirations were considered at outline stage and the outline consent was subject to a planning condition (Condition 14) for any reserved matters application relating to the proposal's layout, scale and appearance, to include details of energy efficiency measures. The application is supported by an energy statement that seeks to address this condition and the ambitions of the Development Plan and the NPPF.

The energy statement details a number of measures that the development and dwellings shall incorporate in terms of addressing energy and low carbon considerations.

Buildings that would be circa 7% more energy efficient than building regulations and would include wastewater heat recovery systems and low energy mechanical extract ventilation systems. Away from the built form electric charging points are to be provided through the development, cycle storage will be delivered to promote this sustainable option of local travel, and sustainable drainage systems are integrated in the scheme. There is also local food production through allotments and orchards and sitewide tree planting. These broadly satisfy the ambitions of Policies SS14 and ES1, and PNP1(f). What is absent from the submission is understanding on site renewable energy delivery, where PNP1(f) seeks no less than 20% being delivered where practicable. The site sits on south facing hillside and there would appear some clear potential to deliver an efficient provision of solar energy. As the submission fails to fully address Policy PNP1(f) of the Paignton Neighbourhood Plan a planning condition is proposed to secure a positive response in terms of on-site renewable energy production. To secure certainty on the schemes low carbon credentials detailed in the current submission a planning condition should secure delivery of the Waste Water Heat Recovery (WWHR) systems etc detailed.



The proposal is considered, with an appropriate planning conditions, to deliver on the low carbon aspirations of the Development Plan, Policies SS14, ES1 and PNP1(f), and the NPPF.

## **10. Affordable Housing**

Affordable housing provision has been largely established outline stage with the amount and general parameters for the provision set in a Legal Agreement that accompanies the outline consent. This established the provision of 30% affordable units, which is the policy compliant level for development of this scale on greenfield sites, occupation type, specifications, and delivery. The Legal Agreement set the type of affordable units in accordance with policy guidance, with the need to deliver a split of a third-third-third between social rent, affordable rent, and part ownership, with 5% of the provision being adapted dwellings. The legal agreement also established the broad requirement for a proportionate mix of dwelling types, and for these to be distributed through the development.

In addition to the requirements of the Legal Agreement a planning condition was placed on the outline consent (Condition 10) that any application for reserved matters relating to the proposal's layout and scale, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority, which shall include information about the siting, size, and tenure type of the affordable units.

The requirement of Condition 10 to submit details with the reserved matters has been met and the submission is accompanied by an Affordable Housing Plan. The plan details the provision of 30 units, which accords with the requirement to deliver 30% of the units as affordable units.

The split of tenure is equal as expected in policy, with 10 social rent, 10 affordable rent and 10 shared ownership units. The units are provided in 3 clusters, 2 clusters of 7 and 6 are provided in the middle of the development off the southern and central roads, and 17 are provided in a third cluster in the southeast corner of the site. In terms of the form of units 8 of the social rented units are within the apartment block and there are 2 terraced units. The remaining 20 affordable rent and shared ownership units are provided within 2,3 and 4-bed terraced dwellings.

The Council's Housing Strategy and Enabling Officer has reviewed the proposal and has advised that the affordable housing submission is consistent with the s106 provision and that he is happy with the spacing and layout of the affordable housing in the context of the overall layout and the distribution affordable housing tenure types.

In light of the comment received the proposal is deemed acceptable in terms of an affordable housing offer.

## **11. 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, including 30 Affordable Housing units. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance, with the benefit heightened by the inclusion of 30% of the units being Affordable units. 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 development is supported by drainage, landscaping and ecological measures to mitigate impact, as detailed in this report. It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

## **Sustainability Conclusion**

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

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

Human Rights Act - The development has been assessed against the provisions of the 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 these Reserved Matters. The outline consent is subject to a S106 legal agreement that secures the following if a scheme is delivered;

- 30% Affordable Housing.
- Education Contributions in accordance with the adopted SPD.
- Sustainable Transport Contributions in accordance with the adopted SPD.
- Highway Works Contribution to the sum of £152,800 towards improvement works to the A385.
- Lifelong Learning Contribution in accordance with the adopted SPD.
- Waste and recycling Contribution in accordance with the adopted SPD
- Cirl Bunting Contribution £87,500.00
- Delivery of Public Open Space and SUDS facilities.
- Greater Horseshoe Bat mitigation in perpetuity

### **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. The provision of 30 affordable homes is also a significant material benefit.

The provision of a public play area is also a significant public benefit, certainly in light of the current absence of child's play facilities within the area. The nearest formal play area being at Claylands near the junction of Borough Road and Brixham Road. The provision of allotments, orchards and public open space are further public benefits that weigh in the schemes favour.

## **Conclusions and Reasons for Decision**

The site already has outline planning permission (with an approved vehicular access design) and is identified for housing within the Development Plan, and the proposal is broadly consistent with the approved outline application for the site. The proposal is considered acceptable in principle.

There are demonstrable public benefits that weigh in favour of the scheme, notably housing provision, including 30 affordable units, a formal equipped child's play area in Collaton St Mary, orchards, allotments and public access to informal greenspace.

The residential environment for future occupiers is acceptable and there are no unacceptable impacts upon the amenity of adjacent occupiers.

Ecology matters are duly resolved in terms of protected species, habitats and biodiversity net gain aspirations.

Flood risk will not be increased, subject to the receipt of satisfactory final detailed design information for the surface water management system.

The internal road and footpath network, and its connectivity, is considered acceptable, subject to confirmation that the areas shown without footways present a suitably safe road network.

The design and visual impact of the scheme presents some concern in terms of the suburban nature of the layout, the limited level of public landscaping and trees within the central area of the development, and the choice of man-made roof and tile hanging materials. It is accepted that the landscaping proposals have been improved and are comprehensive for the layout presented, and that the building character below roof level and boundary treatments have also been improved through the course of the application. It is suggested that, subject to addressing the use of concrete tiles through the scheme via a planning condition, and subject to landscaping conditions to address some targeted uncertainty, the design and visual impact concerns do not outweigh the public benefits of the scheme cited above.

When considered as a whole the proposed development is deemed 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.

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay, or where for housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole.

There are no impacts on protected areas or assets of particular importance to provide a clear reasoning for refusal when considering the scheme in the round and the public benefits noted.

## **Officer Recommendation**

Approval: Subject to;

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

The resolution of a surface water drainage design that would not increase the risk of flooding, in consultation with the Council's Drainage Engineer, 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**

### **Phasing Plan PC**

Prior to the commencement of development a phasing plan shall be submitted to and approved in writing by the Local Planning. The plan shall demonstrate how the development will be implemented in relation to an agreed timetable of works, and shall include the provision of play space, open space, and allotments, landscaping and ecological enhancement, amenity footpaths, highway works and other ancillary infrastructure. The development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9, Page 116SS10, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and Policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan. These details are required prior to the commencement of development to secure necessary detail for essential elements of the development in the absence of the detail accompanying the reserved matters in accordance with the outline consent.

### **Adoptable streets**

No development relating to the creation of the roads shall be commenced until either the roads are subject to a completed agreement under section 38 Highways Act 1980 or 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. Unless the roads are subject to a completed agreement under section 38 Highways Act 1980 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 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 roads**

Unless the roads are subject to a completed agreement under section 38 Highways Act 1980 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 DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

### **Landscaping condition**

Notwithstanding detail submitted and approved, prior to the commencement of any works to or immediately adjacent to the western boundary, the eastern boundary, the northern public open space, or the southern boundary, the following shall be submitted for each area and approved in writing by the Local Planning Authority;

- I. Western boundary – Construction management and level of works to be carried out to the boundary edges, including how the footpath to the lower western boundary is to be installed, minimising the impact on the adjacent trees.
- II. Northern POS – Construction management proposals are required for the area minimising the impact on the adjacent retained green border.
- III. Eastern boundary - Management/protection of the retained hedge.
- IV. Southern boundary – Revised species to *B. jacquemontii* in this area.

The details above (i-ii) shall seek to provide certainty on the level of retention and enhancement of these green borders marked as 'existing vegetation to be retained where possible'.

The development shall proceed in accordance with the detail submitted and approved pursuant to this condition

Reason: In order to duly protect or consider work to green infrastructure in accordance with Policies DE1, NC1 and C4 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

### **Low Carbon - PVs**

Prior to the commencement of development above Damp Proof Course level details of the location and arrangement of on-site renewable energy generation, demonstrated to achieve no less than 20% of subsequent in-use requirement, shall be submitted to and approved in writing by the Local Planning Authority.

Where solar energy production is proposed the proposals shall as far as practicable demonstrate the following:

- (a) Be sited so as to minimise its effect on the external appearance of any building;
- (b) Be sited so as to minimise its effect on the amenity of the area.
- (c) Be detailed so as not to protrude more than 0.2 metres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope, and would be no higher than the highest part of the roof

Any solar equipment approved within each dwelling plot shall be implemented in full and made operational prior to the first occupation of the building and retained 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, Policy PNP1(f) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

### **Waste Storage apartments**

Prior to the first occupation of Units 8-11 details of waste storage facilities shall be submitted to and approved in writing by the Local Planning Authority, including the form and materials of the enclosure.

The waste storage facility shall be implemented in full and made operational prior to the first occupation of the unit(s) to which they relate and maintained thereafter.

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

### **Cycle Parking**

Prior to the first occupation of each plot identified below plans identifying the form and location of enclosed and secure cycle parking (2 per dwelling and 1 per apartment) shall be submitted to and approved in writing by the Local Planning Authority. The details shall include visitor cycle parking for the apartments within a separate legible and overlooked location.

Plots 8-14, 25-30, 72-3, 82-88, and apartments 74-81.

The approved facilities shall be provided and made available for use prior to the occupation of the plot to which it relates and retained and maintained at all times thereafter.

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

### **Electric Parking Provision**

Notwithstanding detail on the submitted and approved plans prior to the first occupation of plots 8-14, 25-30, and 82-88 the location of electric car charging points to serve each dwelling identified shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be completed and made operational and available for use prior to the first occupation of each dwelling to which each facility serves and shall be maintained operational and available at all times thereafter.

Reason: To secure an acceptable form of development and provide adequate electric charging facilities, in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030.

### **Apartment amenity space**

Prior to the first occupation of Units 74-81 the amenity space to the east of the building shall be landscaped and enclosed as detailed and made available for the use of occupants of the building as outdoor recreation space. The amenity space shall be retained and maintained for the occupiers of the apartments for such use at all times thereafter.

Reasons: In order to protect amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

### **Materials Schedule**

Notwithstanding materials referenced within approved plans, prior to their installation the following shall be submitted to and approved in writing by the Local Planning Authority:

- I. A stone sample that responds adequately to local character and distinctiveness.
- II. Details of the form the stone pillars.
- III. A revised roof and tile hanging materials that respond adequately to local character and distinctiveness and demonstrates accordance with Neighbourhood Plan aspirations for natural materials and demonstrates accordance with climate change aspirations.
- IV. Details of the timber cladding which shall be formed of natural timber

The development shall proceed in full accordance with the details approved pursuant to this condition and all other materials shall accord with the materials schedule detailed and approved.

Each building shall be externally finished in full accordance with the approved materials schedule for that building.

Reason: To secure an appropriate form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030, Policies PNP1 and 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;

- I. Details of estate railings
- II. Sample of the laying of natural stone walls, which shall include
- III. Method to ensure location and form (including colour) of all meter boxes limits their visual prominence

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

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

### **Retaining Walls**

Prior to installation details of the external finish of all retaining walls shall be submitted to and approved in writing by the Local Planning Authority.

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

Reasons: In order to protect visual character and local 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.

### **Secured by Design**

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable. The submitted detail shall include detail of locking garden gates and access to communal alley routes, and shall address concerns regarding side access to Plot 72.



The approved measures for each dwelling/plot shall be implemented in full prior to the first occupation of each dwelling/plot.

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

### **Pedestrian Links**

Unless an alternative phasing is agreed in writing the following shall be delivered;

- I. Prior to the first occupation of the development the pedestrian links to the southeast corner to Totnes Road and western edge to Borough Park Road shall be completed to the edge of the site and made available for public use and retained and maintained thereafter.
- II. Prior to the occupation of the 75<sup>th</sup> dwelling public routes to the Public Open Space to the north of the development shall be completed and made available for use and retained thereafter.

The approved links shall be implemented in full as detailed above or within a timeline agreed pursuant to this condition and maintained for such purposes thereafter.

Reason: In the interests of amenity and connectivity, in accordance with Policies SS11 and DE1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

### **Informative(s)**

01. 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.

02. Conditions relevant to these reserved matters are present on the outline consent P/2019/0281.

### **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

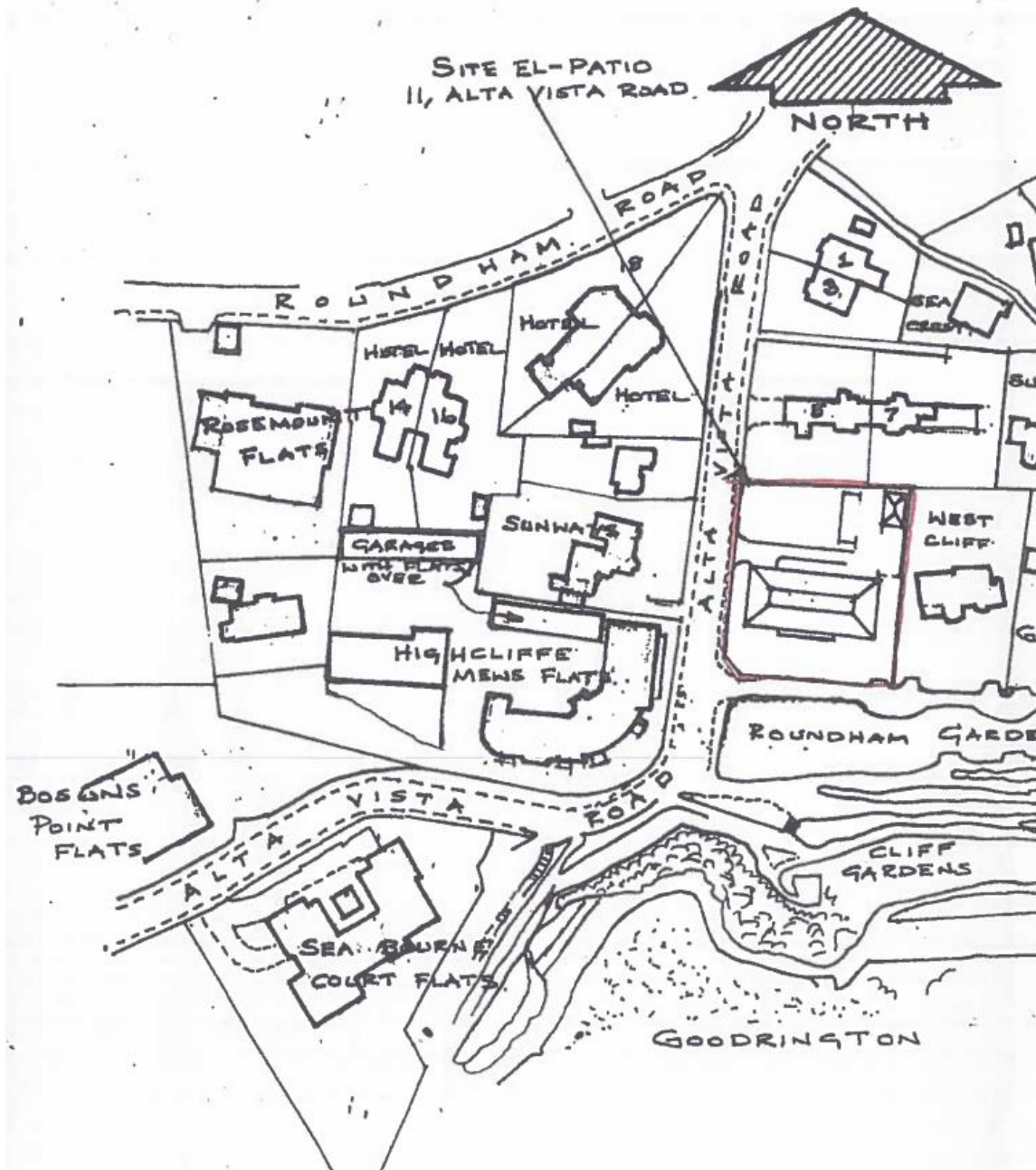
PNP1 – Area wide

PNP1(a) - Rural Character Area  
PNP1(c) – Design Principles  
PNP1(d) – Residential Development  
PNP1 (f) – Towards a sustainable low carbon energy efficient economy  
PNP1(g) – Designing out crime  
PNP1(h) – Sustainable transport  
PNP1(i) - Surface Water  
PNP19 – Safeguarding open countryside  
PNP24 – Collaton St.Mary Village

## **TORBAY COUNCIL**

Application Site Address	El-Patio, 11 Alta Vista Road, Paignton
Proposal	Reserved Matters application on P/2019/0893. Matters to be discharged: (i) landscaping (to include hard and soft landscaping, and means of enclosure).
Application Number	P/2022/1090
Applicant	Mr and Mrs Roach
Agent	Howes Partnership Architects
Date Application Valid	10.10.2022
Decision Due date	09.01.2022
Extension of Time Date	20.01.2023
Recommendation	Approval
Reason for Referral to Planning Committee	The proposal relates to reserved matters of a major development.
Planning Case Officer	Jim Blackwell

### **Location Plan**



### **Site Details**

The site comprises a large two storey, detached residential dwelling with a render and tile hung elevations with a mixture of aluminium and uPVC fenestration. The site area is 1,910 square metres and the existing footprint of the dwelling is approximately 246 square metres excluding the outbuilding and detached garage. The site provides ample parking for the existing dwelling, the submitted information indicates nine off street parking spaces, as well as a swimming pool to the rear of the site. The site provides pedestrian access from both Alta Vista Road and Roundham Gardens and vehicular access from Roundham Gardens. The site lies to the eastern side of Alta Vista Road and the site levels are relatively flat. The site is adjacent to Roundham and Paignton

Harbour Conservation Area.

### **Detailed Proposals**

This is a Reserved Matters application relating to hard and soft landscaping and means of enclosure in relation to the previously approved ten residential flats as part of outline planning application P/2019/0893.

The proposed landscaping works include:

- Retained hedgerow on all sides of the site.
- Retention of the existing lawns to the south of the proposed units.
- Formation of ten parking spaces with blockwork surface to the north of the site.
- Gravel access road and turning head for parking area.
- Retention of existing tarmac access route to the south.
- New tree planting and retaining existing cherry trees.
- Proposed walls and railings to the north elevation of the proposed building.

### **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**

- Torbay Local Plan ("The Local Plan")
- Paignton Neighbourhood Plan

#### **Material Considerations**

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

### **Summary Of Consultation Responses**

Paignton Neighbourhood Forum:

No comments received.

Green Infrastructure Manager:

The proposed landscaping is satisfactory. We will require standard conditions relating the replacement of plants that die within a 5 year timeframe.

### **Summary of Representations**

No comments received.

### **Relevant Planning History**

CN/2022/0118: Discharge of Conditions relating to application P/2019/0893. Conditions: 02 - RM landscaping, 07 - Biodiversity Enhancement, 08 - Bicycle Storage, 13 - Electric Charging Point, 14 - Boundary Treatment. Approved 02/12/2022.

P/2019/0893: Outline consent for the demolition of existing building and construction of 10 x residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved. Approved 15/07/2020

P/2002/1060: Erection of 4 Bedroom Residential Property. Refused 03/10/2002.

P/2001/1360: Redevelopment to Provide 10 Residential Apartments with Vehicular and Pedestrian Access (As Revised by Plans Received 4/2/02). Approved 11/04/2003.

P/2000/0738: Renewal of Application Reference No.95/0859/Pa for Erection of Garage. Approved 29/06/2000.

P/2000/0277: Redevelopment to Form 8 Self Contained Flats (In Outline). Approved 22/01/2001.

P/1990/0719: Conversion of Previously Approved Three Bedroom Apartment Ref App. No. 89.2853 To Form 2 Two Bedroom Flats (Total 8 Units). Approved 30/05/1990.

P/1989/2853: Conversion and Extension to Form Seven Apartments with Parking. Approved 03/04/1990.

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

Outline planning permission has been granted for the demolition of existing building and construction of ten residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved. Unusually therefore the only matter reserved to be considered within this application relates to landscaping.

Please note that in discharging planning conditions 02 and 07 as part of CN/2022/0118 the landscaping details and ecological enhancement measures have effectively already been agreed.

The principle of residential development of this site is established through the previous outline planning permission. The key issue relates to the landscaping (to include hard and soft landscaping and means of enclosure). For clarity, the ecological enhancement measures being proposed are also included below.

### **1. Landscaping and Trees**

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. The development proposed under this application would not cause significant harm to existing trees and hedgerows and represents only a minor revision from the layout approved by the reserved matters consent P/2018/0522.

Policy PNP1 (a) b) of the Paignton Neighbourhood Plan states that development should increase biodiversity and ecological networks and Policy NC1 of the Local Plan requires development to conserve and enhance Torbay's biodiversity through the protection and improvement of fauna and flora.

The site is in a visually prominent, highly elevated location, a corner plot where Alta Vista Road meets Roundham Gardens, evident from a large expanse of public vantage points. The boundary facing Roundham Gardens consists of a low stone rubble wall with

a variety of hedgerow types. The Alta Vista Road boundary consists of a low brick wall with a variety of largely overgrown hedges and trees. The internal north and east boundaries adjacent neighbouring properties comprise of hedgerow and mature trees. Within the site are a range of mature trees, shrubs and a lawn to the south facing Roundham Gardens.

The original outline planning application included objections and concerns around trees and wildlife. There have been no representations to this current Reserved Matters application. The original application was supported by an Ecological Impact Assessment which stated that the proposed demolition will not affect the conservation status of any local bat population. No signs of bats were associated with any element of the structures to be affected and no bats were recorded leaving the building during the emergence survey. The report also stated that the hedges and mature garden shrubs provided suitable breeding bird habitat, any necessary vegetation clearance would best be undertaken outside the bird breeding season and if this is not possible then works should be preceded by a breeding bird survey.

It should be noted that the site falls outside of the Roundham and Paignton Harbour Conservation Area and there are no protected trees onsite. The Council's Green Infrastructure Manager has been consulted on the application and considers the landscaping scheme satisfactory subject to a condition requiring replacement of any plants lost within five years. This condition forms part of the original outline application.

The proposed landscape plan indicates retention of the existing hedgerow and cherry trees to the north of the site, the retention of existing hedges to the east, south and west of the site. A new vehicular access to the west is the only area which would lead to a loss of the existing hedgerow. A number of new trees and plants are proposed which will ensure the development provides an increase in the range of species currently on site. The existing lawn would be retained to the south facing Roundham Gardens.

In terms of the streetscene, the proposed landscaping scheme would continue to largely screen the development from Alta Vista Road, whilst providing a soft edge to Roundham Gardens. The existing boundary walls of stone and brick would be retained and continue to reflect the traditional features of the area.

The proposed development is considered acceptable with regard to Policy C4 of the Local Plan.

## **2. Ecology and Biodiversity**

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

P/2019/0893 included a condition (number 07) which required the reserved matters to include details of measures to enhance biodiversity. A Biodiversity Statement was submitted in support of the original application. The plans include a suitable number and appropriately positioned bat and bird boxes as recommended.

The biodiversity enhancement measures are therefore in accordance with Policy NC1 of the Torbay Local Plan and the NPPF.

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

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

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

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

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

EIA/HRA

EIA:

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

HRA:

Not applicable.

### **Planning Balance**

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**

Overall, the number and range of trees, plants and shrubs would be increased on the site. The proposed landscaping scheme would continue to largely screen the development from Alta Vista Road, whilst providing a soft edge to Roundham Gardens. The existing boundary walls of stone and brick would be retained and continue to reflect the traditional features of the area.

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



### **Conclusions**

The proposed landscaping (to include hard and soft landscaping and means of enclosure) is considered to be acceptable. As such, the proposal is considered to be in accordance with the Torbay Local Plan, and all other material considerations.

### **Condition(s)/Reason(s)**

None required – refer to original approved application P/2019/0893.

### **Informative(s)**

01. Responsibilities of the applicant / developer:

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

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

### **Relevant Policies**

DE1 – Design

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

PNP1(c) – Design Principles

PNP1(d) – Residential Development