



Friday, 15 November 2019

PLANNING COMMITTEE

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

Monday, 25 November 2019

commencing at **5.30 pm**

The meeting will be held in the Riviera International Conference Centre, Chestnut Avenue, Torquay, TQ2 5LZ

Members of the Committee

Councillor Pentney (Chairman)

Councillor Barrand

Councillor Hill

Councillor Brown

Councillor Barbara Lewis

Councillor Dart

Councillor Manning

Councillor Dudley

Councillor Jacqueline Thomas

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For information relating to this meeting or to request a copy in another format or language please contact:

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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. **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.)

3. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

4. **Former Palace Hotel, Babbacombe Road, Torquay (P/2019/0716)**

(Pages 4 - 51)

Demolition of former hotel and associated buildings. Formation of 248 bedroom hotel, 38 dwellings, associated landscaping and works

5. **The Lighthouse, 26 Esplanade Road, Paignton (P/2019/0804)**

(Pages 52 - 92)

The demolition of the existing building and the formation of a 119 bedroom hotel with ancillary facilities and associated works

6. **Land South Of Yalberton Road, (Yannon's Farm), Paignton (P/2019/0173)**

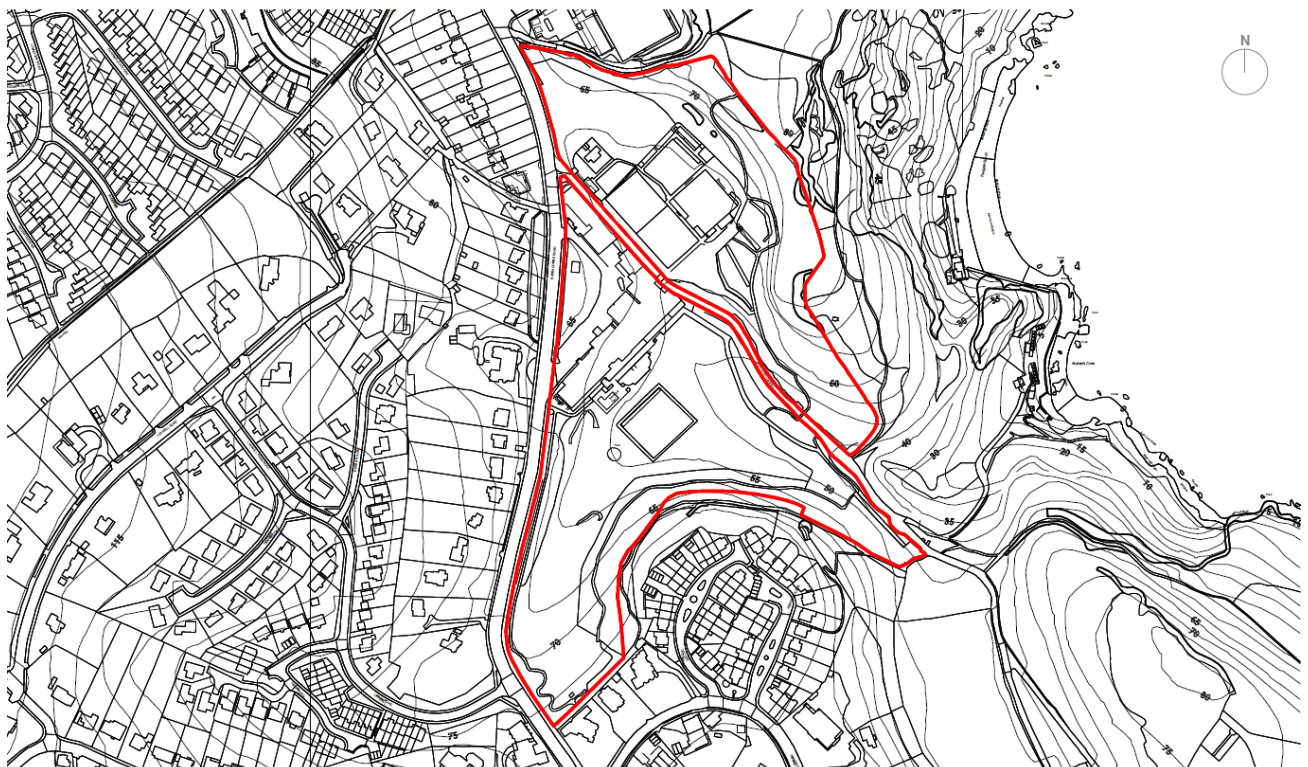
(Pages 93 - 118)

Reserved matters application pursuant to P/2019/0605, for the construction of 189 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11

7. **The Old Toll House, Abbey Crescent, Torquay (P/2019/0316/PA)** (Pages 119 - 139)
Demolition of part of existing building, extension, and change of use to cafe/bar (revised plans received 23/09/2019)
8. **The Old Toll House, Abbey Crescent, Torquay (P/2019/0317/LB)** (Pages 140 - 148)
Demolition of part of existing building, extension, and change of use to cafe/bar (revised plans received 23/09/2019)
9. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
10. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 20 November 2019. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



Application Site Address	Former Palace Hotel, Babbacombe Road, Torquay
Proposal	Demolition of former hotel and associated buildings. Formation of 248 bedroom hotel, 38 dwellings, associated landscaping and works
Application Number	P/2019/0716
Applicant	Fragrance UK Torquay Ltd
Agent	Kay Elliott Architects
Date Application Valid	31.07.2019
Decision Due date	25.10.2019
Extension of Time Date	13.01.2020
Recommendation	Delegate authority to the Assistant Director of Planning & Transport to grant conditional approval subject to confirmation of acceptable means of drainage and additional highways plans and the completion of a Section 106 Legal Agreement by 15.01.2020.
Reason for Referral to Planning Committee	Major Planning Application
Planning Case Officer	Mr Alexis Moran



Site Details

The Palace Hotel was originally a grand Italianate villa and was built as a home for the Bishop of Exeter in 1841. It has been greatly extended and remodelled. The existing hotel extends to, approximately 18m in height (relative to Babbacombe Road) and provides 141 bedrooms.

The site is split with the hotel and its main gardens to the south west of Ansteys Cove Road and the indoor tennis building, outdoor tennis courts and woodland areas to the north east. The site is affected by a range of local plan designations which reflects its environmental and landscape sensitivities.

The main gardens fronting the Palace Hotel is Urban Landscape Protection Area and County Wildlife Site. The "Tennis Court" site, is immediately bounded by a county wildlife site; Site of Special Scientific Interest; Urban Landscape Protection Area; and Coastal Preservation Area. The Coastal Protection Zone skirts the lower south east portion of the site.

The land to the north of the tennis court site, currently comprising an attractive stone built cottage, gardens and woodlands is allocated as a committed site in the Torquay Neighbourhood Plan and partially as a committed site in the Local Plan. The last permission on this site gave consent for 137 residential flats (P/2013/1209) which has now expired.

Walls Hill Scheduled Ancient Monument and SSSI extends close to the eastern boundaries of the site.

The site is situated in Flood Zone 1 but forms part of the Torbay Critical Drainage Area.

Description of Development

This planning application seeks planning permission for the redevelopment of the site which would comprise of the demolition of the existing hotel along with its associated buildings; the erection of a replacement 248 bed hotel with spa/conference facilities and parking, and the erection of 38 dwellings on the site of the current indoor and outdoor tennis courts.

The proposed hotel is to 9-storeys high (relative to Babbacombe Road) including a penthouse level accommodating the rooftop bar and ventilation plant, and two additional basement/lower ground levels, accommodating the proposed parking, spa and 500 delegate conference facilities. The hotel's facilities including spa, the conference facility and rooftop bar will be open for non-residents.

The proposed residential dwellings are located to the north east of the new hotel and are arranged into three character areas, derived from their individual setting.

Two access points have been maintained from Babbacombe Road in a similar location to the existing accesses points. The directional restrictions on Ansteys Cove Road will be maintained, with two-way access between the residential access and the junction

of the A379 Babbacombe Road/Anstey's Cove Road and one-way southbound to the south east of the access of the residential development.

Pre-Application Enquiry

DE/2018/0063 – the proposed demolition of the existing hotel and ancillary buildings and the construction of 250+ bedroom hotel, with conference and spa facilities, landscaped gardens, associated car parking and approximately 39 private dwelling houses. The existing building is neither listed nor located within a conservation area, however, it is considered to be a non-designated heritage asset. Officers support the principle of demolition and redevelopment.

Concerns were raised with regards to the loss of the rocky outcrop/mound on the western boundary which makes up a key site in the English Riviera UNESCO Global Geopark and should not be removed.

The larger hotel building and the proposed housing development was largely supported by Officers.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

P/2019/0350 – Environmental Impact Assessment screening/scoping opinion; EIA not required 18.04.2019

DE/2018/0063 - Proposed demolition of existing hotel and ancillary buildings, construction of 250+ bedroom hotel, with conference and spa facilities, landscaped gardens, associated car parking and approximately 39 private dwelling houses

P/2013/1209 - Erection of single and two storey roof level hotel bedroom extension. Reconstruction of west wing of hotel. Reconstruction of existing three storey wing on NE elevation to provide 4 storey block of additional guest accommodation. New Spa and gym facilities to SE elevation and replacement Orangery. Redevelopment of

existing garage building to provide 73 car parking spaces and an additional 40 spaces to hotel frontage. Construction of 137 flats with leisure facilities on tennis court site with 181 covered car parking spaces and 24 visitor spaces. Restoration of gardens, woodland management, including limited felling of TPO trees and improvements to local footpaths; approval 20.06.2014

P/2010/1224 - Extend time limit - formation of 142 holiday apartments with 130 car parking spaces, leisure facilities and associated works, improvements to existing footpath network (in outline) application P/2007/0969/MOA; approval 29.09.2011

P/2007/0969 - Erection of 142 holiday apartments with 130 car parking spaces, leisure facilities and associated works; improvements to existing footpath network (in outline); approval 20.02.2008

Summary of Representations

Nineteen representations in support and nineteen objections to the scheme had been received at the point at which this report was drafted.

The reasons for support are summarised as follows:

- Removes an eyesore
- Beneficial to the economy through long term investment and employment
- Improves tourism facilities
- The addition of housing in place of the previously approved high rise flats is an improvement

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

- Impact on highways
- Overdevelopment (of the housing site)
- Height
- Impact on the character of the area

Summary of Consultation Responses

Historic England - *We have reviewed both the response from the archaeological consultant in respect of the setting impact of the proposed development upon the Scheduled Monument Prehistoric field system at Walls Hill and the completed Landscape and Visual Impact Assessment (LVIA) which provides relevant photomontages of the potential visual effect of the proposed development as viewed from the Scheduled Monument.*

*Whilst we continue to disagree with the archaeological consultant's views on the contribution towards its significance that the Scheduled Monument derives from its setting, the LVIA photomontages nonetheless demonstrate that the proposed development would cause limited visual intrusion when viewed from locations within the Scheduled Monument. Consequently, it is our opinion that this application if consented would **not** harm the setting of the Prehistoric field system at Walls Hill.*

Historic England has no objection to the application on heritage grounds.

Strategic Highways - Transport Assessment

I note the various points made in the TA about accessibility of the site and the existing context. I have some clarification comments to make but would note no objection to the principle of the development in this location. Aside from the previous use, there are clear walking, cycling and public transport sustainable access opportunities making this site acceptable in respect of sustainable development from a transport perspective.

With regards to cycling, there are Council plans to improve the route along Babbacombe Road and we would look for this scheme to preserve that opportunity. The Council have a design largely drawn up and are working with Sutrans on the final stages to ensure the best opportunities are made. With regards to buses, it needs to be clearer that the stops adjacent to the site do not include the 64 and that the 32c is not a frequent service as there is only one service in each direction on term days. Finally on rail, it should be clarified that services from Torquay, not Torre, can provide direct access to Bristol and London. Additionally to the long distance services, from December there will also be two Devon metro services per hour linking Paignton and Exeter/Exmouth, which will include a link with Newton Abbot where additional long distance and Plymouth/Cornwall services can be connected to.

On highway safety, though the six incidents are identified I would like to see the two cases immediately adjacent to the site access considered further. This could clearly have a bearing.

Site access to hotel is described as being amended within the highway and shown on the landscape drawings as such – with planters as islands protecting the right turn lane. There are no detailed drawings provided to show this and therefore I cannot confirm that it is acceptable to the highway authority. There would clearly need to be thought given to maintenance of these as well. As there are no detailed drawings it is difficult to assess but it appears that there may be conflict between the tracking drawings and the planters. It is necessary for the existing right turn lane to be maintained for access into the site, and it would be helpful if the road markings were reinforced. However, it is not necessary to have the islands and as it is outside of the site boundary, I would not want any decision (if approved) to accept the proposal without further detail and clarification being provided.

The access to the dwellings on Ansteys Cove Road raises no concerns and neither does the provision of access to the ground level parking for the hotel with servicing.

There is a mention of the PROW that connect to the site but no clarity over whether direct connections from the site will be provided. Clarification on this matter would be helpful.

Considering servicing of the hotel a little further, it is noted that the TA accepts that a road closure on Ansteys Cove Road would be necessary for any large servicing of failed machinery to take place. This is not considered to be something that is at all frequent but would be disruptive to other road users and mitigation measures would need to be put in place if the time arose. However, this will be an operational decision if and when required by the Council and the operator of the hotel will need to be made aware that the granting of this decision (if approved) does not automatically grant consent for road closures.

The TA considers the impact of the residential development, the increased hotel, and calculates the conference facilities as separate exhibition space. As such, I consider this to be a robust assessment. It does demonstrate that with the conferencing facilities at full occupancy and none of those delegates staying as a hotel guest, there would be significant peaks in the am peak and just prior to the pm peak. However, this is considered unlikely to ever be a true reflection on the use and I am content to accept the typical (i.e. hotel and residential) trip rate. The hotel peaks differ from the network peaks, though the residential reflect them. This will further help in that the junction movements will be different. The additional traffic (both arriving and departing from the hotel) is less than 1 vehicle a minute in the peak hours. As such it is not considered to have a notable impact. Additionally there could very well be a wide range of north south movements, with both arrivals and departures from either.

I have not been able to clarify whether the layout of the residential aspects meets the highways design guide as I haven't been able to access a detailed drawing of the layout. I therefore cannot comment on the acceptability or otherwise of this. Please advise if I have missed a submitted plan.

In considering parking, I am content that there are sufficient spaces. I would not support an excessive number of spaces just for the occasion when the conference facility was full in addition to the hotel. I believe the quantum is a reasonable compromise.

I would welcome the submission of a car parking management statement, in advance of implementation, to clarify how visitors to the site will be signposted to the separate parking areas. It is useful that there is specified parking (i.e. motorcycle/blue badge/electric charging) across both areas but clarification of how guests will be advised of the availability of spaces etc would be helpful to avoid unnecessary vehicle idling. This is needed before implementation in case further changes to the layout/implementation are needed as a result of the statement. Whilst it is positive that the applicant is promoting electric charging, the provision of thirty spaces is significant. I would request that the car parking statement also

explains how if these are not fully used that can be flexible and available to all to ensure the avoidance of unnecessary use of on street parking as an overflow.

The TA notes that coach parking can be provided on the highway but I have not been able to clarify this on a drawing. I do not object to the principle but clearly the access points and tracking areas would need to be kept clear.

There is a suggestion that a pedestrian link will be provided to the Anstey Road public car park. However, no details have been provided for this.

Travel Plan

As noted the operator of the hotel will be required to provide a detailed travel plan. This will need to be a condition of any granting of approval. However, what the submitted interim travel plan doesn't fully appreciate is that the hotel and residential will operate separately and therefore the residential developer will also need to prepare a similar document for that aspect. Therefore any such condition will need to seek a full Travel Plan for both the residential and hotel aspects of the development – these will likely be more appropriate as two separate submissions for clarity but is not essential.

The interim travel plan as submitted should be revised to be clearer about the responsibilities and timings for the residential and hotel/conference aspects.

The travel plan does not accurately reflect the content of the TA, taking account of the comments above. This includes bus and rail links clarification. Additionally the comments made above about the TA should be incorporated where appropriate.

Section 3.1.3 says baseline surveys will be on occupation of each unit. This is appropriate for residential but again, this is a reference that doesn't clearly distinguish between the hotel and residential aspects of the proposal. Likewise the document continues to suggest that the hotel operator will appoint the Travel Plan Coordinator and Manager, however that is unlikely to be appropriate for the residential units.

Section 5.1.2 states that the Travel Plan Coordinator will be appointed in advance of the opening of the hotel. This is important and needs to be reinforced. It also needs to be clear that information will be provided to hotel staff prior to their appointment so that they are able to make informed choices about travel in advance; to hotel guests on booking and reiterated prior to arrival to ensure they can also make informed decisions; and to residential occupiers both within marketing and on completion of purchase.

Arboricultural officer - Existing/Tree loss

- *The site visit with the project arboricultural consultant provided discussion, thought processes for and validation of the tree protection plan.*
- *The loss of trees around the north edge of the residential development are those internal to the site, woodland edge trees and generally lesser specimens. The trees are afforded a higher level of amenity value because of their numbers but have not been managed for a number of years leading to the decline in the condition of the woodland.*
- *To the south of the development a number of B category trees are shown to be removed, these trees are associated with the woodland adjacent woodland however they are relatively open grown and provide an attractive internal group of trees which would detract from the amenity of the site – especially since the area will become more visible due to removal of an existing building and replacing it with a car park.*
- *The entrance island will lose a number of Beech trees around the periphery of the north end to allow for car parking.*
- *The area immediately to the south of the existing will lose two Pine trees to facilitate the new development.*
- *The tree protection plan (for the development) correctly identifies the trees and categorises them accordingly. The plan provides all the necessary information to protect the trees showing those to be removed.*
- *There is no plan showing a tree protection plan showing what level of protection is afforded to the trees during the demolition phase.*
- *The woodland areas are generally unmanaged.*
- *Approx 3 U category trees or groups to be removed.*
- *Approx 1 A category tree to be removed.*
- *Approx 26 B category trees to groups to be removed*
- *Approx 26 C category trees or groups to be removed.*

Proposed/Landscaping

- *The landscape proposal provides an overview of the likely soft and hard landscaping proposed for the site with some detail on tree planting.*
- *Trees are shown to be planted within the proposed car park area*
- *Ornamental and feature planting is shown in the main entrance area.*
- *Planting within the highway area is shown within the immediate region adjacent to the proposed entrance.*
- *Various landscape structures are proposed within the grounds of the hotel.*

Conclusion

- *The number of trees being removed is understandable given the scale of the development*
- *Concerns are raised over the level of proposed planting and mitigation for the loss of the trees*
- *Lack of detail on the proposed planting*

Recommendation

- *The proposal is suitable for development on arboricultural grounds providing;*

1. A full sustainable landscaping scheme is submitted with specific reference to the larger tree planting in the car park area and highway this is to include engineered tree planting pits to allow for and encourage the trees establishment and longevity within the landscape.
2. The street scene is preserved and enhanced with the additional planting within the car park area and highway. Discussions with tree officer recommended.
3. An arboricultural method statement detailing site monitoring and potential vehicular movement in the parkland area around retained tree stock.
4. A tree protection plan for the demolition stage of the development.

Natural England: *the drainage information does not address our concerns relating to Hope's Nose to Wall's Hill Site of Special Scientific Interest (SSSI). The report contains no evidence to suggest that the SSSI has been considered or included in an assessment of potential impacts. Further drainage information is therefore required.*

Torbay Development Agency: *The proposals for a new, 248 bed purpose-built five star hotel with spa and conferencing facilities is a welcome investment to Torbay and the English Riviera. The destination is currently without a five star hotel and this development will help to make the English Riviera more attractive to new visitors. The new hotel will help to satisfy the growing demand by both domestic and international visitors for high quality accommodation, open all year round.*

Situated overlooking Anstey's Cove, one of the English Riviera UNESCO Global Geopark key geosite's, the hotel is well positioned to benefit from the area of outstanding natural beauty and heritage of Torbay.

The new hotel will support the development of Torbay's visitor economy, currently worth c£430m, attracting 4.6m visitors a year. The proposed hotel investment aligns to the ambitions of the English Riviera's Destination Management Plan 2017-2021 specifically:

- *Attracting new visitors (particularly international)*
- *Attracting investment*
- *Improving the quality of accommodation*
- *Improving hotel occupancy throughout the year*

The proposals present a purpose built high end, luxury hotel with spa and conference facilities which the modern fully independent traveller (FIT) expects. For overseas visitors especially, having an internationally recognised hotel brand available to book online, all year round will undoubtedly attract new visitors to the destination. The demand for quality, all year round holidays in the UK is continuing, with 'staycations' expected to increase and importantly, moving into the 'shoulder' and winter months. TDA projects that the proposed development will create:

- *Capacity for 114,055 new overnight visitors per annum, based on 248 beds and 70% occupancy*
- *Construction jobs forecast at 300-399 FTE, over the construction period*
- *248 direct FTE hotel jobs, 40-70 indirect jobs*
- *An annual GVA uplift of over £5M (assuming 5 star status)*
- *Additional tourism expenditure of £29M per annum based on a 4 night average stay and average spend of £257 per visitor.*

This is a welcome investment to support the development of Torbay's economy and develop local skills. We encourage the operator to link with South Devon College to develop accessible Apprenticeships and skills, and to also attend Torbay's annual recruitment events to employ local talent.

Community Safety - *Further to your recent consultation regarding the above application I would confirm that I have no objections subject to a condition requiring a construction management plan. A suitable condition may be as follows:*

Construction/Demolition Management Plan:

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

- o Procedures for maintaining good neighbour relations including complaint management.*
- o 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.

- o Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.*
- o 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.*
- o Control measures for dust and other air-borne pollutants.*

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development

A planning contribution of £3,000 towards CCTV at Torquay Harbour is also requested.

Ecological Consultant - *An Ecological Impact Assessment, Construction Ecological Management Plan and Landscape and Ecological Management Plan have been submitted with the application. The submitted methods and proposed mitigation are considered adequate for the purposes of determining the application. The submitted Flood Risk and Drainage Strategy has also been reviewed by the LPA and Natural England in relation to biodiversity considerations.*

Designated sites:

Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ) lie approximately 130m east of the site. The application lies within 7.7 km of South Hams SAC (Berry Head to Sharkham Point SSSI component) however the site is outside of the South Hams SAC Greater Horseshoe Bat Consultation Area. The proposals are not considered to result in recreational

impacts on South Hams SAC Annex I habitats due to the distance of the proposals from the SAC.

The site lies partly within Hope's Nose to Wall Hill Site of Special Scientific Interest (SSSI) which is designated for its rich habitats including calcareous grassland supporting notable plants, rich lichen and flora and features of geological interest. Part of the site lies within Asheldon Copse Other Site of Wildlife Interest (OSWI) a non-statutory site with planted woodland and parkland habitat.

Habitats

The site comprises a disused hotel and leisure buildings with associated habitats including hardstanding, introduced shrubs, scattered trees and amenity grassland with broadleaved woodland.

Species

Autumn lady's-tresses, a Devon Notable plant species was recorded within the amenity grassland of the site. The desk study identified several records of Japanese Knotweed, a species listed on Schedule 9 of the Wildlife and Countryside Act 1981 (as amended). A number of other non-native plant species were also noted during the site survey but no Schedule 9 species were recorded.

The woodland provides suitable habitat for notable invertebrates, however significant populations are considered unlikely. Suitable habitat was identified within the single ornamental pond for amphibians, however the site does not lie within a great crested newt consultation area and the presence of this species is considered unlikely. Habitats are considered unsuitable for reptiles.

No breeding birds were recorded during the survey however suitable habitat was identified within the vicinity of the site including within buildings including house sparrow, house martin and swift. Woodland habitat is considered sub-optimal for dormouse and is to be retained and protected from development. The grassland and woodland provide suitable foraging habitat for badger. No badger setts were identified.

Trees with bat roosting potential which would be affected by the development were surveyed further with one dusk emergence and one dawn re-entry survey in June 2018. No bats were recorded.

Preliminary roost inspections of buildings between 2013 and 2017 indicated evidence of low numbers of pipistrelle and long-eared bat, and individual serotine and lesser horseshoe bat. Follow up activity surveys in 2017 and 2019 confirmed the buildings are no longer used by long-eared bat and lesser horseshoe bat. One greater horseshoe bat was recorded emerging from the main garage door in July 2019 indicating presence of a non-breeding day roost for individual greater horseshoe bats of moderate conservation significance.

Impacts

Construction impacts include removal of the following habitats:

- *Amenity grassland (0.5ha)*
- *Buildings and hardstanding (0.2 ha)*

- *Introduced shrubs (0.13 ha)*
- *Scattered broadleaved trees (32)*
- *Standing water (0.01 ha)*

The proposals will result in the demolition of buildings with confirmed bat roosts for 3 to 4 species of bat with low to moderate conservation significance. Removal of habitats will also result in loss of autumn lady's tresses from amenity grassland, loss of potential foraging habitat for badger, potential harm to low numbers of common amphibians and potential disturbance to breeding birds. Negative impacts to Hope's Nose to Walls SSSI grassland due to trampling and other recreational pressures are also considered.

Mitigation

Mitigation and enhancement measures are included in Section 4 of the submitted Ecological Impact Assessment and within the submitted Construction Ecological Management Plan and Landscape and Ecology Management Plan and include:

- *Habitat protection and pollution prevention measures during construction in accordance with industry guidance*
- *Tree protection during construction in accordance with BS 5837:2012*
- *Inclusion of autumn lady's tresses within the Landscape Strategy/working method statement for translocation*
- *Timing of works*
- *Installation of 10 Shwegler Type 1A swift boxes within both the hotel and residential units and 15 Shwegler 1B bird boxes attached to retained trees*
- *Pre-construction protected species surveys*
- *Securing of European Protected Species Licence (EPSL) in relation to bat roosts associated within Buildings TN1, TN3, TN6 and TN8 and proceeding of works under the EPSL method statement. Proposed mitigation measures include a bespoke bat house on the edge of retained woodland, installation of 20 Shwegler 1FR bat tubes, 15 Shwegler 2F bat boxes, good working practice and ecological supervision*
- *Post construction measures include incorporation of sensitive lighting measures into detailed lighting plans*
- *Strategic mitigation of recreational impacts on SSSI habitats*
- *Long-term delivery, maintenance and monitoring incorporated into the Landscape and Ecological Management Plan.*

Habitats Regulations Assessment

A Habitats Regulations Assessment has been carried out on behalf of Torbay Council in relation to effects of the proposals alone or in-combination with other plans or projects on European sites. No Likely Significant Effects are considered on South Hams SAC qualifying habitats and species in view of the application's location and bat survey findings. Subject to the prior written approval of a detailed Sustainable Urban Drainage System (SUDS) plan the Council has concluded there would be no adverse effect on the integrity of Lyme Bay and Torbay SAC (and Torbay Marine Conservation Zone) as a result of the development. Natural England concurs with the Council's assessment.

SSSI considerations

The Ecological Impact Assessment states no areas of Hopes Nose to Walls Hill SSSI are to be removed as a result of the proposed development. Recreational impacts including trampling pressure are considered within the mitigation proposals.

European Protected Species Licensing

Because the works will require a European Protected Species Licence in relation to loss of confirmed bat roosts, the Local Planning Authority is required to carry out an assessment of the proposals against the three derogation tests of the Conservation of Habitats and Species Regulations 2017:

- 1. the works are for imperative reasons of overriding public interest or for public health and safety;*
- 2. there is no satisfactory alternative; and*
- 3. favourable conservation status of the species would be maintained*

Subject to works proceeding in strict accordance with the mitigation measures and working method statement required to support the European Protected Species Licence I am satisfied the proposals meet the derogation tests of the Habitats Regulations.

Overall impact assessment

Subject to strict compliance with the proposed mitigation and monitoring measures it is considered there would no significant long-term negative effects on biodiversity and geodiversity receptors and the development would be compliant with relevant legislation and policy.

Recommendation :

- 1. No objection subject to the recommendations of Natural England and the Lead local Planning Authority. A detailed Sustainable Urban Drainage Plan is to be approved in writing by the planning authority prior to the commencement of works.*
- 2. Works to proceed in strict accordance with the submitted Ecological Impact Assessment [EAD dated September 2019] the Construction Ecological Management Plan [EAD, dated September 2019] and the Landscape and Ecological Management Plan [EAD, date September 2019] and the Flood Risk Assessment and Drainage Strategy [Pitman Associates, dated October 2019].*
- 3. Mitigation and monitoring compliance shall be confirmed in writing by the applicant's ecologist as a condition of approval.*
- 4. Approval will be subject to the applicant obtaining a relevant European Protected Species Licence prior to the commencement of works.*

Reason:

To ensure no harm to protected sites, habitats and species in accordance with the Conservation of Habitats and Species Regulations 2017, NPPF and Policies SS8, SS9, C4 NC1, W5 of the Torbay Local Plan and Policies TE3, TE4 and TE5 of the Torquay Neighbourhood Plan.

Torbay Council Housing Services: *It is disappointing to see that the applicant is suggesting that there will be no on site provision of affordable housing on this site and whilst we understand the applicants position that the plans for the site will bring significant regeneration benefits we can't agree to this being in lieu of any affordable housing. As we are sure they are aware the Council's policy is that 20% affordable housing should be provided on a scheme of this size and so 8 affordable homes. We would expect these to be a mix of tenures ½ social rent, 1/3 affordable rent and 1/3 shared ownership and the bedroom numbers to be proportionate to the scheme as a whole.*

If the suggestion is that a commuted sum would be provided instead of an onsite provision we would need to have sight of an IVA to understand the financial viability, this would be considered on its merits and we would then be in a position to provide further comments.

There are currently over 1100 households on the waiting list for affordable housing in Torbay and if none is being provided we would have no option but to object to this application.

Police Liaison Officer: *It is pleasing to note reference in the Design and Access Statement to Secured by Design. Taking steps to ensure the security and layout of the proposed residential development is to a recognised standard will provide reassurance to residents and visitors as well as increasing sustainability.*

Secured by Design (SBD) is a police owned initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places to live, work, shop and visit.

Hotel

The lighting scheme should be to the relevant levels as defined in BS 5489:2013 and the use of 'on building' or pole mounted solutions wherever possible. Bollard lighting and low level lighting work well for wayfinding or as supplementary lighting but they are not recommended from a safety and security perspective as the limited light they do emit is generally at the wrong height to aid facial recognition.

A monitored CCTV system is required. CCTV cameras should be distributed throughout the building and external areas with a clear passport to compliance document in place prior to installation to ensure the system is fit for purpose. Coverage over access controlled areas, entry and exit points, bike and bin stores, underground parking and parking areas in general and walkways etc. are of particular importance. CCTV should be designed to co-ordinate with external lighting and landscaping. The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended to be used for prosecution.

To increase security and reduce the fear of crime it is recommended that pedestrian routes for hotel guests do not overly intrude into the residential area. As mentioned above ideally the two developments should be kept separate wherever possible.

Hotel Parking *The police consider that the parking provision is adequate when balanced against the number of hotel rooms. The preferred advice would be not to construct buildings on top of parking areas but where unavoidable every effort must be made in preventing unauthorised access.*

Condition

It is hoped that the safety and security measures as detailed above are negotiated into any approval without having to resort to conditions but in the event this is not desirable I would be grateful if the following, which specifically relates to CCTV and lighting, could be worded into an appropriate condition:-

Details of a monitored CCTV system, passport to compliance document and an external lighting plan shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To deter and detect crime and ASB and reduce the fear of crime for guests and staff. In accordance with relevant policies of the Torbay Local Plan, Torquay Neighbourhood Plan and National Planning Policy Framework.

Torbay Design Review Panel

11.06.2018

The existing hotel building has been extended over many years and in many phases and although a substantial complex has been gradually created there is no great architectural merit, nor did there seem to be any realistic prospect of restoring historic fabric associated with the original house that occupied the site. The panel support its demolition and replacement with a modern hotel with contemporary facilities that might meet the current market demand. We are pleased to hear that the development proposition will target the upper end of the tourism market.

The site is part of a mature landscape setting and this forms an important component of greenspace for this part of Torbay. Wellswood presents here as a wooded suburb with strong tree cover and many mature / large specimens. The knoll which separates the current hotel from the main road (Babbacombe Road) helps to integrate the scale of the current building into this context and adds three-dimensional interest to the site. The trees that surmount the knoll (especially the conifers) help to define the landscape character of the major public route as it passes by the site.

The topography is quite complex and the public lane (Anstey's Cove Road) that drops down through the site creates a natural division. It was notable how the current ancillary hotel buildings form a tall 'sheer wall' alongside the lane and the pedestrian bridges over the lane are key incidents/locations within the landscape.

The recent management of the landscape has not been strong and some of the later additions to it have been poorly judged. However, there is still a strong sense of the original Italianate landscape of the original villa and the basic structure is good and

sound as an underlying basis for new proposals. We were pleased to hear that public access to the main area of parkland was envisaged in the completed project. We were re-assured to hear that the setting of the nearby Walls Hill scheduled ancient monument was not likely to be significantly affected by the proposals.

The Design Approach

We were disappointed to hear of the intention to remove the knoll – especially since this part of the site was then shown to be used as only a surface level car park.

There will need to be much more careful and further investigation to determine the visual impact of the proposals in key views from further afield. However, in the preliminary studies that we were shown, then we agreed with the initial assessment that the site could accommodate a new building of increased scale.

In terms of the cross-sectional strategy for the development then the major design challenges are clearly in the lower public/service parts of complex. We fully expect that a rational and efficient layout of rooms will influence the architecture of the upper storeys and a natural architectural expression will arise, but there are more subtle questions about the posture and language of the grounded parts of the building and the way in which these relate to the landscape:

- We do not have an accurate grasp of the topography, but fully expect that a single cross-section does not describe all the conditions...
- We do not have a strong sense of what the architectural expression of this base is really like – potentially we think it could be in contrast or counterpoint to the regular structure above?
- The interplay between built form and new landscape interventions within the immediate vicinity of the building needs to be better resolved / possibly integrated – with potential for the use of levels to subtly divide otherwise conflicting activity / occupancies?
- We felt that the ideas for new landscape need more development. We were unconvinced by the various ‘features’ that were being added to the landscape apparently inspired by random sources and we urge that the ‘genius loci’ is better understood and responded to.
- The curvilinear forms seemed to have little to do with the romantic English landscape of the parkland or the original Italianate landscape and nor did they emanate from the strict geometry of the building.
- A stronger sense of how all the languages are brought together into an harmonious whole needs to be debated within and amongst the design team.
- The colonnade idea is an attractive one, but here the question of appropriate language is writ large – its role might encourage greater visual allegiance to the landscape rather than to the built form in terms of its appearance? This component (or elements of it) seems to have the potential to extend across the wider site – binding disparate uses and demarking the primary pedestrian movement, perhaps?

The reduction in the intensity of the residential development in the northern part of the site is very welcome. The inclusion of this land-use follows the extant permission, and the lower scale, more conventional layout proposed seems to be a much better fit with the context. There are some good ideas emerging within the layout but we think this needs further refinement:

- Ensure that the end conditions of the line of villas present well as corner sites (good secondary facades needed).
- Reconsider the role / use and therefore location of the small public open space serving this new neighbourhood – currently seems to be associated too strongly with a group of adjacent houses in the centre of the site (part of their defensible space/occupation by others likely to cause nuisance?) might be better positioned at a ‘node’ in the pattern of pedestrian movement?... Also, we questioned the area and proportions of the space – it seemed to be a ‘corridor’ rather than a useful breathing / activity space for the whole community.
- Having stated our support for a reduced height, we feel that the villas could be successful with a further storey, if this was desirable.
- There is some good thinking about the relationship to the wooded edge to the north, but this could go further – perhaps greater informality in the layout here?
- The former use of this part of the site as a walled garden could influence the design more significantly – perhaps more boundary enclosure / house types that reflect this could be developed?
- We are concerned by the housing that is shown being accessed directly from Anstey’s Cove Road – the character of this lane needs to be controlled more carefully and it is in danger of descending to be something of a ‘service road’.
- The pedestrian bridge connecting this part of the site back to the hotel needs to play a more significant role within the layout – moving the public open space to establish a positive relationship with the bridge should be considered.

Concluding Remarks

There are many encouraging aspects to the proposals, we do however really question the wisdom of removing the knoll and although there will be several substantial design consequences we do not support this proposition.

We encourage the clever use of levels across the site to hide parking, sub-divide activity and integrate the proposals into the landscape. Further exploration / investigation into how the north-west corner of the site is utilised may well be fruitful. We see nothing wrong with maintaining the existing posture of high walls here towards Babbacombe Road. A developed Design Concept needs to be captured as a set of simple spatial diagrams that can clearly act as a guide to both how the site is structured and the language and posture of the buildings. Building and landscape relationships need more finesse – especially in cross-section. Movement around the site and the intrinsic character of the landscape ought to beneficially have a greater influence on the layout.

14.12.2018

We support the strategy to demolish the existing hotel building. The wider mature landscape setting of the site and its character is an important consideration since this is experienced by many passers-by, travelling along the main Babbacombe Road - which is one of the main arteries of the urban area.

Complex topography is a challenge but if handled well could present opportunities and provides particular character.

Original distinctive layout (Italianate Villa within romantic landscape) although denuded can still be discerned and is capable of being revived in a contemporary form.

The Design Approach

We discussed again at some length the merits of retaining the landscape 'knoll' that currently sits alongside Babbacombe Road and partially divides the site from the major road.

You mentioned that alternative strategies for parking had been explored, but it was disappointing that evidence of these studies were not presented. We also noted that the large area of car park which stretched along most of the west elevation was presented as a verdant greenspace. We thought that this was misleading and we challenge you to draw the car parking realistically, both in plan and in section. We thought that the entrance space was rather 'mean' for a grand hotel and conference centre – these spaces deserve a stronger strategy, as strong as that proposed for the eastern side.

There will need to be much more careful and further investigation to determine the visual impact of the proposals in key views from further afield. However, in the preliminary studies that we were shown, we agreed with the initial assessment that the site could accommodate a new building of increased scale.

We welcome the closer examination of the landscape characters and the recognition of 'foreground', 'medium ground' and 'background' conditions. This seems to be a very useful understanding and needs now to be more strongly influential in developing the landscape proposals. There are still ambiguities associated with the southern combe and its relationship back to the main open spaces of the site. The identity of this secondary valley is important to the structure and legibility of the site and it seems to be in danger of becoming cluttered – we urge that interventions associated with the Spa facility are more discreetly handled and drawn back to the sides of the minor valley. The Torbay vogue for creating Italianate settings in the 19th century was mentioned during your presentation with examples from the Palk/Cary era of villa development being cited. In the quoted example, the typical garden design involved a naturalised – though often engineered – setting ('La Campagna') and a formal designed element; generally on a secondary axis. We see no reason why this ethos could not be successfully replicated on the application site; with a clear distinction between the primary valley with its rolling landscape and the secondary valley's use for a more formal spa garden.

The cross-sectional ideas for the hotel building seem now to be better resolved as a general strategy. It is less clear how the colonnade relates (to the building and the landscape) and its form in plan needs to be tested against other possible alternatives. However, we commend the manner in which the building touches the ground, allowing users to flow into the parkland, the more successful relationship of the building to the northern bridge over Ansteys Cove Road, and the simplified eastern landscape design indicated on revised proposal drawings.

In our previous review we welcomed the reduction in the intensity of the residential development in the northern part of the site. The various matters that we raised with

regards to the layout and more detailed aspects seem to have been satisfactorily addressed.

We again drew attention to the triangular portion of the site adjacent to the junction with Anstey's Cove Lane – currently occupied by a garage building. This seems to us to be another potential part of the site that could be better utilised.

We welcome the further refinements and explorations in determining the architectural language of the hotel building – the simpler gridded elevation seemed to us to be the most successful option.

17.01.2019

We are now seeing the fruits of a deeper understanding and appreciation of the landscape and contextual setting of the project – the historical appraisal and Landscape and Visual Impact Assessment work demonstrates a thorough analysis of the site and its setting. The collection of relevant precedents that you included in your presentation was also a useful reference point.

We are very pleased that an alternative strategy for the western edge of the site along Babbacombe Road has been found and we commend the retention of the rocky knoll and the trees which surmount it. We are comfortable that some reduction in size will be acceptable in order to accommodate a rational layout – but the degree of necessary excavation needs to be minimized and kept under strict review. The planning authority may wish to ensure (by way of a planning condition) that appropriate protection is put in place during the construction period.

The Design Approach

The re-configuration of the car parking is supported as a better strategy – the multi-level solution adjacent to Ansteys Cove Road seems to be a good solution.

If further car-parking spaces can be found elsewhere (at lower levels) then we think that the parking area immediately next to the main entrance could be usefully reduced in size. The hotel will be an impressive building and its grandness and elegance needs to be reflected in the forecourt – the design of the parking solution here needs greater sophistication and this would be aided if fewer spaces were being attempted.

The vehicular ramp down from entrance level to the lower parking levels seems less successful as a fairly tight curve on plan and its relationship to the rest of the orthogonal geometry of the overall layout and main building makes for an awkward composition. We recommend that alternative ramped solutions are tested that might relate, more effortlessly, with the rest of the site-planning – if the inscription of a 'turning circle' can be avoided, or lost within the general landscape design then that would be welcomed.

You showed optional approaches showing how the elevation of the car park to Ansteys Cove Road might be treated. We believe that a fairly modest / honest expression is the best way forwards here, rather than to over-articulate what is merely a servant structure. The delight and interest could arise in the planting that might be arranged to grow up and over the masonry. We discussed the need to consider inter-visibility

between the car park and the new dwellings – in our view, this is not a major issue, but could be influential in the design of guardings / balustrades.

The hotel building continues to be finessed and developed in its detailed design, we are generally content with the architectural approach that is emerging, but would offer the following observations:

Of the options shown, then we favoured the compositional strategy that had 3 storey bays at the top of the elevations (surmounted by the rooftop accommodation).

The elevational detail which omitted the intermediate horizontal element was more elegant in its simplicity than the others shown.

The colonnade has a more satisfactory form in plan – there is a need to make this a bolder statement – consider its materiality and how it is articulated in relation to its junctions with the main fabric of the building. From the east, one of your perspectives indicated a secondary element perched above it and providing a horizontal roof element that unhelpfully competed with the colonnade – the balance of the formal composition here needs careful handling. The soffit of the colonnade will be another key detailed design consideration.

The southern elevation of the hotel (overlooking the Spa Garden) is more successful, but you should consider how to create better relationships between inside and outside at lower levels and if the blank façade of the car park has to remain, then how might this be mitigated in some way?

We commend the thinking and ideas so far in terms of the specification and use of high quality and locally-associated materials alongside more contemporary finishes. A distinguished palette is emerging, we would always urge restricting this to fewer materials wherever possible. We were less certain the plinth condition (behind the kitchen / herb garden) was yet resolved – this vertical surface is, logically, another part of the re-consideration that we encourage.

We are pleased to see the advances made in the thinking with regard to the landscape design and support the strategy that you are now working to:

The Spa Garden and its lineal formality drawn back from the centre of the secondary combe is a much more successful approach. We are concerned that this clear design proposition (gridded and rectilinear to the main building) is not confused and cluttered by spa apparatus and other additions and were pleased to see that you have some ideas for how this might be subtly combined with the landscape scheme. This approach need to be firmly adhered to.

We enjoyed and admired the ideas for managing the movement of surface water through the landscape and again this now seemed to respond to the landscape character – its design traditions and history much more strongly than earlier versions.

The energy strategy (serving both hotel and housing) seemed to be exemplary and we commend the use of a 'Combined Heat and Power' energy centre with local district heating.

Turning to the proposed housing, we are generally content that our earlier concerns have been satisfactorily addressed, but would observe:

We respect the wish to provide detached housing as a type, but believe that terraced solutions would be just as elegant and satisfactory and would clearly enable a higher density to be achieved.

The design strategy within plots is elegant but could suffer from inappropriate alterations and additions over time – the colonising of car ports for extra rooms, or the addition of incongruous conservatories, etc. It is suggested that legal mechanisms are explored for restricting this and/or perhaps permitted development rights could be withheld as part of the planning process – to safeguard the long term quality of the development.

The approach to highways design is applauded and we urge that really good quality hard landscape / surfacing materials are specified.

The inclusion of copper (borrowed from the hotel palette of materials) may be successful, but the overall elegance of the architectural language may be improved with fewer materials – and this might be re-considered.

We note that the relationship between the pedestrian bridge over Ansteys Cove Road and the houses immediately adjacent could give rise to concerns of over-looking / lack of privacy. This needs to be considered as the detail of this part of the layout is confirmed.

Concluding Remarks

We hope that the foregoing observations again prove to be useful in confirming the final adjustments to the design of the project, but we are content that the general arrangement and the approaches being taken to the detailed design are now well-considered and proving to be successful. The challenge is to ensure that consistency and care is pursued to the finer detail.

We have been impressed with the open-ness and willingness to respond to our earlier reports and can see substantial improvements in the design as it has progressed. We thank the design and development team for their part in what we regard as a highly successful design review process and wish the project well.

Key Issues/Material Considerations

Planning Officer Assessment

The matters for consideration are:

1. Principle of Development
2. Economic Benefits
3. Design and Visual Impact
4. Impact on Amenity
5. Trees and Ecology
6. Flooding and Drainage

- 7. Highways Impact
- 8. S106
- 9. Other Considerations

1. Principle of Development

Hotel site

There is an established hotel use at the site, and the proposal is therefore acceptable in principle.

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

Policy TE1 of the Torquay Neighbourhood Plan states that new tourism developments will be supported where, in particular, they make use of brownfield land. Policy TS4 (Support for Brownfield and Greenfield Development) confirms that:-

Development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan.

The proposed hotel would provide a larger, modern and improved tourist facility on brownfield land, and in place of a vacant hotel building. Furthermore, the Torquay Neighbourhood Plan specifically addresses tourism and highlights Torquay as a 'destination in transition'. The Neighbourhood Plan also refers to 'Turning the Tide for Tourism', which identifies an oversupply of in small B&B guest house sector (less than 10 rooms) with a significant oversupply of low quality, low value added small hotels. There is an identified lack of good quality, large hotels and branded chains.

The proposal is considered to be acceptable in principle.

Residential site

In terms of the principle of a residential use Policy H1 of the Torbay 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. Torquay Neighbourhood Plan Policy TS4 (Support for Brownfield and Greenfield development) states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan.

The residential part of the site had been allocated as a housing site in the previous Torbay Local Plan (Policy H1.8) for the provision of 35 units.

Planning application P/2013/1209 (approved 20.06.2014) allowed the construction of an eight storey building accommodating 137 private flats on the tennis court site.

As a result of this the residential aspect of the site is shown as partially committed and partially as a site for consideration by the Torquay Neighbourhood Plan for housing, the Torquay Neighbourhood Plan shows the residential site as being a committed site (CDST18). The approved planning permission has now expired so the status as a committed site is no longer relevant. However the previous permission and local plan allocation along with the current Local Plan and Neighbourhood Plan allocations suggest that the principle of residential development on this site is acceptable.

In light of the broad aspirations of Policies H1 and TS4 and previous permissions and allocations on the site, the principle of residential use is considered acceptable, subject to broader policy considerations.

2. Economic benefits

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort. Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism and catering.

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

The proposal would result in the replacement of a hotel, which has been closed since 2017 and which is now in decline, with a modern hotel facility. The proposed hotel will include generous guest areas befitting of a 4 / 5* hotel, including restaurant, bar, spa, leisure facilities, conference and events venue and a rooftop bar.

During the construction period it is estimated that the proposed development will create on average 399 full time equivalent (FTE) jobs. Once operational, the applicant has advised that the replacement hotel is proposed to create 248 (FTE) direct new jobs and circa 70 (FTE) indirect new jobs.

The applicant estimates that the hotel will attract 114,055 new overnight visitors per annum, based on 70% occupancy of 248 beds. There is expected to be a significant financial contribution to the area with new tourism expenditure alone estimated to attract over £7 million per annum (based on a 4 night average stay and an average spend of £257 per stay).

It is estimated that the proposed development will contribute between approximately £102 million and £170 million towards the local and regional economy during the construction phase. In net GVA terms the proposed development is expected to result in an uplift of over £5 million per annum.

The proposed hotel has the potential to be a significant destination in its own right, with its facilities, location and design being key attributes. The redevelopment of the

site is likely to act as a catalyst for further regeneration within the Bay and send a clear signal to other potential investors that Torquay is a first-class destination for tourists and residents alike.

The Torbay Development Agency supports the application, noting that:

The new hotel will support the development of Torbay's visitor economy, currently worth c£430m, attracting 4.6m visitors a year. The proposed hotel investment aligns to the ambitions of the English Riviera's Destination Management Plan 2017-2021 specifically:

- *Attracting new visitors (particularly international)*
- *Attracting investment*
- *Improving the quality of accommodation*
- *Improving hotel occupancy throughout the year*

The proposals present a purpose built high end, luxury hotel with spa and conference facilities which the modern fully independent traveller (FIT) expects. For overseas visitors especially, having an internationally recognised hotel brand available to book online, all year round will undoubtedly attract new visitors to the destination. The demand for quality, all year round holidays in the UK is continuing, with 'staycations' expected to increase and importantly, moving into the 'shoulder' and winter months. TDA projects that the proposed development will create:

- *Capacity for 114,055 new overnight visitors per annum, based on 248 beds and 70% occupancy*
- *Construction jobs forecast at 300-399 FTE, over the construction period*
- *248 direct FTE hotel jobs, 40-70 indirect jobs*
- *An annual GVA uplift of over £5M (assuming 5 star status)*
- *Additional tourism expenditure of £29M per annum based on a 4 night average stay and average spend of £257 per visitor.*

This is a welcome investment to support the development of Torbay's economy and develop local skills. We encourage the operator to link with South Devon College to develop accessible Apprenticeships and skills, and to also attend Torbay's annual recruitment events to employ local talent.

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

3. Design and Visual Impact

The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.

Accordingly, Policy SS11 of the Torbay Local Plan states that development must help

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

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

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

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

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

Hotel

The existing hotel is four storeys and 19m from ground level on the Babbacombe Road elevation, the proposed building would be nine storeys on this elevation and 31m in height from the Babbacombe Road (excluding the lift overruns).

Whilst it would be taller than other buildings in the local area, it is noted that its immediate surroundings are characterised by a range of building types and sizes, and significantly changing topography. When the prevailing ground levels are taken into consideration, the proposal, at its tallest point above ordnance datum (AOD) would be around 11m higher than Georgian Court which is 50m to the west.

To the south-east there are two seven storey buildings, Ilsham House and Asheldon House, the closest of which is 315m from the site. The existing hotel is four storeys on the Babbacombe Road elevation and the adjacent indoor tennis court building is approximately 18m in height, Georgian Court, opposite the existing hotel to the west, is set on slightly higher ground and is five storeys in height. Notwithstanding this the

proposed hotel building should be considered as a tall building in the context of the Council's Building Height Strategy which formed part of the evidence base for the Local Plan and in particular to Policy DE4.

The supporting text to this policy states that the guidance set out in the Building Heights Strategy will be used to inform the implementation of Policy DE4 and in determining planning applications. The text acknowledges that tall buildings can deliver regenerative benefits, contribute to the re-use of brownfield land and reduce development pressure on greenfield sites. If well-designed and built in suitable locations, tall buildings can form architectural and visual landmarks and help define the area.

Chapter 6 of the Building Height Strategy states that tall building proposals will be required to demonstrate either urban design or socio-economic benefits, and provides further criteria against which tall buildings should be considered. These criteria include location, conservation, views, topography, design, public realm, streetscape, microclimate, amenity, land use, and sustainability.

Chapter 7 of the Building Height Strategy states that tall buildings should seek to avoid breaking the skyline of prospect or panoramic views to preserve the landscaped character of the horizon.

This chapter also states that increasing the height of a building/the addition of a tall building can be acceptable where the topography of the land would allow them. For example...

In a dip or hollow, or against a cliffside, where the greater height would have little or no additional impact on its surroundings.

Due to the topography of the site which is that of two converging valleys, the existing hotel building is largely obscured from most medium and distant vantage points. The land to the west rises by approximately 50m over a distance of 250m with areas to the north and south-east rising in the region of 20m from the site entrance. Within the site, there is a difference in ground levels of nearly 10m between the entrance forecourt and the gardens to the west of the hotel building.

The existing hotel is set back by 7m from Babbacombe Road at its nearest point whereas the proposed hotel would be set back approximately 32m from Babbacombe Road. The proposed layout of the hotel would see it set back significantly from the road which aids in reducing its perceived height and impact on the character and appearance of the area from local views and from views further along Babbacombe Road in each direction.

The proposal would result in the replacement of a tired building with what is considered to be a significant visual and townscape improvement; that it would preserve wider public views; would strengthen the character of the area and be appropriate in terms of its visual impact; enhance local and long-distance views; bring socio-economic and

regeneration benefits, it is considered that there are sufficient grounds to allow for an exception in this case, as allowed by Policy DE4.

The proposal is not considered to be unacceptably harmful to the character of the area or local amenity, it would provide what are deemed to be acceptable arrangements in relation to parking, amenity space, landscaping, and other services, that the proposal would not result in an over-development of the site.

The proposed development was considered by the Torbay Design Review Panel, and their comments are regarded as a material consideration. It was concluded that a development along the lines proposed would be acceptable in this location. The hotel is to have vertically proportioned elevations inspired by the original Bishopstowe villa. The simple elevational grid incorporates floor to ceiling windows to provide framed views from guest rooms.

In terms of its design and appearance, the proposal is considered to be consistent with the advice and conclusions of the design review process. The palette of materials proposed for the hotel are of high quality, these reflect the local and historic character of the area with the use of gold copper alloy to line the inside edges of the elevational grid, reflecting light in different ways around the building. This is inspired from the veins of gold found at Hopes Nose which is a mile to the south of the site. Precast etched concrete is proposed for the main building grid and colonnade which echoes the render used in large modernist buildings in Torbay.

Devon Limestone is proposed for the plinth areas of the elevation, facing the spa garden terraces and retaining walls along Anstey's Cove Road. Internally the hotel lobby floor and a large wall panel within the hotel entrance are to be Ashburton marble.

The rocky outcrop to the immediate north of the entrance is retained which makes a significant contribution to the streetscene. The spa area is proposed to the south of the hotel which is sited at a lower level than the road.

Policy TH8 of the Torquay Neighbourhood Plan requires new development to be of a good quality and reflect the identity of its surroundings in terms of height, scale, and bulk. The policy is well founded as, in design terms, it is considered that the focus of design should always be about responding to the context of the site and identity of the area. Given the context of the site and the proposed height of the new hotel it would be difficult to argue that the proposal is in complete conformity with this policy. However the report details the overall design considerations and it is considered that the building will be a strong and legible landmark and in this respect, officers are satisfied that the building is of an appropriate design quality to respect the surroundings as required by the policy.

It is considered that the form and layout of the scheme would make effective use of what is brownfield land, and that the proposal responds well to the topography of the site. Given the proposal's siting, layout, scale, and overall design, it is considered that it would not result in any unacceptable harm to the character of the area. Subject to

the use of conditions to secure the use of high quality materials; a scheme of hard and soft landscaping; boundary treatment details; external lighting, bicycle, and refuse storage arrangements, it is considered that the proposal is in accordance with Policies DE1, DE4, and SS11 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

Paragraph 175 point b) of the NPPF states that *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*

Natural England have advised that further drainage information is required in order to confirm that the proposal does not have a potential significant effect on the Hopes Nose to Walls Hill SSSI. Subject to confirmation that sufficient suitable information has been submitted the proposal would conform with Paragraph 175 point b) of the NPPF.

Historic England have confirmed that they have no objection to the development and that it would not have a detrimental impact on the setting of the Walls Hill Scheduled Monument located immediately to the northeast of the northern part of the site.

The Lincombes Conservation Area is located some 200m to the south of the proposed hotel building but bounds south of the site. The closest Listed Building is the Grade II* Listed St Matthias Church which is approximately 430m to the south.

Para 196 of 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. Thus the decision process should weigh the benefits of the proposal against the harm arising, which in this case are considered to fall in the less than substantial category. This balancing exercise also needs to consider further advice contained within the NPPF that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should also consider an optimum viable use of a site (Para 196).

The site is well screened from wider views from within the conservation area by the existing boundary wall and mature tree lines. The increase in height of the building from that currently on site and the addition of the spa area to the south will have a limited impact on the conservation area with the built form remaining a significant distance from the conservation area boundary.

Due to the distance, the built form between the Grade II* Listed Church and the difference in topography between the sites, the proposal would not impact on the setting of the listed building to the south.

On balance, with a less than substantial level of harm, when considering the Development Plan and the NPPF, the proposals are considered suitable for approval

in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 193, 194 and 196 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.

Residential development

The application proposes 38 bespoke dwellings on the site of the former indoor and outdoor tennis courts and leisure facilities to the north of the hotel site. The dwellings are 'zoned' into three character areas which take into account their historic and natural settings.

Orchard Walk provides the entrance into the residential development and takes its name from the retained 19th century cottage and an orchard which was once in this location. This part of the residential development is made up of the retained cottage which will become a pair of semi-detached dwellings and a terrace of four two storey dwellings with rooms in the roof provided by the addition of dormers. The elevations are to be brick with undercroft parking. The road surfacing here is to be a shared surface with ornamental planting and stone and brick boundary walls.

Kitchen garden mews is made up of two terraces of twelve two storey dwellings and nine three storey dwellings with red brick elevations, with timber cladding around the entrances, courtyard gardens, undercroft parking, and south-facing gardens.

The nine three storey dwellings are located adjacent to Anstey's Cove Road and the terrace of two storey buildings are located opposite to these to the north-east which results in a tight urban grain. The street between the two terraces is to be a shared surface or 'homezone'

Woodland Drive is made up of eleven modernist detached dwellings which are timber clad with zinc clad first floor roofs and aspects of pre-oxidised copper. The dwellings are screened by the road to their north by planted Devon banks. These dwellings have large rear gardens which are bound by the rear walls of the terrace of dwellings to the south.

A small park area is proposed adjacent to Anstey's Cove Road and the bridge link to the hotel development. The park will include natural play equipment and provide views over the restored hotel parkland grounds and provide connections to the wider footpath network. This is to be enclosed by raised planters along the northern edge which will provide informal seating with sensory and fruit species.

The existing bridge will be retained and provide controlled access for residents into the hotel grounds.

The overall aim of the residential design and layout is one which is bespoke and retains the landscape character of the area being framed by the woodland to the north and east and by using a palette of materials which are historically and visually suitable. The density of the area proposed for housing development is approximately 26 dwelling per hectare.

The Design Review Panel supported the design strategy and felt that although the detached dwellings were elegant, a further terrace of higher density dwellings could also be possible in their place. The approach to highways design was considered to be very good and that good quality hard landscape / surfacing materials should be specified.

They also noted that to safeguard the long term quality of the development permitted development rights for the proposed dwellings should be removed in order to prevent incongruous extensions etc. in the future.

It is considered that the form and layout of both the hotel and residential schemes would make effective use of what is brownfield land, and respond well to the topography of the site. The two developments would result in an enhancement of a site which includes dated and tired structures. There would not be any harm to heritage assets and the proposal would result in urban design benefits. Given the proposals' siting, layout, scale, and overall design, it is considered that they would not result in any unacceptable harm to the character of the area. Subject to the use of conditions to secure the use of high quality materials; a scheme of hard and soft landscaping; boundary treatment details; external lighting, bicycle, and refuse storage arrangements, it is considered that the proposal is in accordance with Policies DE1, DE4, and SS11 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

4. Impact on Amenity

Hotel

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Policy DE4 suggests that tall buildings should respect surrounding residential amenities and not have an adverse impact on living conditions in terms of overlooking, overshadowing and being overbearing.

The closest existing residential dwellings to the proposed hotel are in excess of 50m from the proposed hotel. Despite the proposed increase in height of the hotel building, the distance is considered to be sufficient enough to prevent unacceptable levels of overlooking/intervisibility. It is also noted that the existing hotel is closer to adjacent residential properties so in terms of overlooking the proposal is likely to be an improvement.

Given the distances between the proposed hotel and the existing residential properties it is not considered that the development would result in a loss of light or outlook.

The hotel building will be more visible from further views mainly from the dwellings in Kensy Close and Lydwell Park Road to the west which are located on higher ground

116m away and some of the objections have raised this as an issue. However the distance between these dwellings and the proposed hotel are sufficient so as to not result in any unacceptable loss of amenity of the occupiers of these dwellings.

The consultation response from the Councils Community Safety team suggest the use of a condition requesting a construction demolition management plan which will aim to minimise dust and noise disturbance during the demolition and construction phases.

Residential development

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

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

Internally a concern was raised over the potential for some overlooking/intervisibility between the two sets of terraced properties which make up *Kitchen garden mews* however the applicant has amended these plans and a slight increase to the walls of the terraces of the three storey dwellings overcomes this concern.

The hotel proposal is unlikely to have a significant impact on the proposed dwellings which make up part of this application through loss of light or overbearing impact and there would be limited intervisibility/loss of privacy.

Subject to the use of conditions requiring a construction demolition management plan and conditions relating the details and implementation of bin and cycle storage and of parking areas, it is considered that the proposals, would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, access to natural light, privacy, or other nuisances such as noise, dust-drift, or light-intrusion. As such, the proposals are in accordance with Policy DE3 of the Local Plan.

5. Trees and Ecology

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features. The site is currently very limited in terms of its landscape features.

A number of trees are to be removed as part of the proposed developments a number of these are lesser specimens or poor quality and have not been managed for a number of years.

In mitigation trees are shown to be planted within the proposed car park area, ornamental and feature planting is shown in the main entrance area and there is planting within the highway area with various landscape structures being proposed within the grounds of the hotel.

The Council's arboricultural officer has advised that the number of trees being removed is understandable given the scale of the development. However concerns have been raised over the level of proposed planting and mitigation for the loss of the trees.

The Council's arboricultural officer has confirmed that the proposal is suitable for development on arboricultural grounds providing subject to conditions requiring further landscaping and planning information as well as an arboricultural method statement and a tree protection plan to cover the demolition phase.

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments, and fauna and flora, commensurate to their importance. Policy TE5 of the Torquay Neighbourhood Plan states that, where appropriate, an assessment of impacts upon any existing protected species or habitats should be undertaken, and the use of necessary mitigating arrangements, in order to protect and enhance species and habitats, should be provided.

The Lyme Bay and Torbay Special Area of Conservation (SAC) and Torbay Marine Conservation Zone (MCZ) lie approximately 130m east of the site. The application lies within 7.7 km of South Hams SAC and is outside of the South Hams SAC Greater Horseshoe Bat Consultation Area.

The site lies partly within Hope's Nose to Wall Hill Site of Special Scientific Interest (SSSI) which is designated for its rich habitats including calcareous grassland supporting notable plants, rich lichen and flora and features of geological interest. Part of the site lies within Asheldon Copse Other Site of Wildlife Interest (OSWI) a non-statutory site with planted woodland and parkland habitat.

No breeding birds were recorded during the survey and trees with bat roosting potential which would be affected by the development were surveyed with no being recorded. Woodland habitat is considered sub-optimal for dormouse and is to be retained and protected from development. No badger setts were identified.

The proposals will result in the demolition of buildings with confirmed bat roosts for 3 to 4 species of bat with low to moderate conservation significance. Removal of habitats will also result in loss of autumn lady's tresses from amenity grassland, loss of potential foraging habitat for badger, potential harm to low numbers of common amphibians and potential disturbance to breeding birds. The development also has the potential for negative impacts to Hope's Nose to Walls SSSI grassland.

The submitted Ecological Impact Assessment and within the submitted Construction Ecological Management Plan and Landscape and Ecology Management Plan include a number of mitigation and enhancement measures. Subject to conditions to

ensure the development in undertaken in accordance with the proposed mitigation and monitoring measures it is considered there would no significant long-term negative effects on biodiversity and geodiversity receptors on the site or to the SSSI and the development would be compliant with Policies SS8, SS9, C4 NC1, W5 of the Torbay Local Plan and Policies TE3, TE4 and TE5 of the Torquay Neighbourhood Plan.

Habitats Regulations Assessment

A Habitats Regulations Assessment has been carried out on behalf of Torbay Council in relation to effects of the proposals alone or in-combination with other plans or projects on European sites. No Likely Significant Effects are considered on South Hams SAC qualifying habitats and species in view of the application's location and bat survey findings. Subject to the prior written approval of a detailed Sustainable Urban Drainage System (SUDS) plan the Council has concluded there would be no adverse effect on the integrity of Lyme Bay and Torbay SAC (and Torbay Marine Conservation Zone) as a result of the development. Natural England concurs with the Council's assessment.

EIA

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

6. Flooding and Drainage

Policy ER1 (Flood risk) states that development must be safe for its lifetime, taking account of its future use, function and government projections of how the risk of flooding may change in response to climate change. Development proposals will be expected to maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site is in flood zone 1 however it is part of the site is susceptible to surface water flooding. The applicant has submitted a detailed site specific flood risk assessment however the Council's Drainage Engineer has requested further drainage details from the applicant. Subsequently revised details have been received and updated consultation comments are awaited.

7. Highways Impact

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

public spaces will be taken into account.

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

The hotel development includes 264 car park spaces made up of a 178 space basement car park, an 80 space ground level car park spaces on the forecourt. Whilst the provision of parking spaces would fall short of the requirements of Policy TA3, the supporting text does explain that a site-specific approach will be taken. The Strategic Transport consultation response states that the level of parking is acceptable and that an excessive number of spaces for the hotel and conference facility would not be supported.

A condition requiring the submission of a car parking management statement prior to the first use of the hotel will be added to ensure the suitability of the parking arrangements.

The 38 residential units have 84 associated car parking spaces which provides two per unit plus some visitor parking. It is considered that the parking provision for the residential units meets the requirements of Policy TA3.

A condition requiring the submission of a separate Travel Plan for the residential and hotel aspects of the development will also be requested by condition.

Overall, it is considered that the trip rates to be associated with the proposal are unlikely to result in unacceptable harm to the operation of the highway

Additional site access details have been requested for the hotel aspect of the proposal and in particular whether the planters in the middle of the road can be safely implemented. The access to the dwellings on Ansteys Cove Road is acceptable as is the provision of access to the ground level parking for the hotel with servicing.

Further information has been requested to clarify whether the layout of the residential aspects of the development meets the Torbay highways design guide.

There is no objection in principle to the proposal of coach parking being provided on the highway but additional information on this is necessary to ensure the access points and tracking areas are kept clear.

There is a suggestion that a pedestrian link will be provided to the Anstey Road public car park. However additional details are necessary to confirm this.

A secure staff cycle parking store is available on the ground floor, this has space for 28 bikes. For hotel guests, secure storage for 48 bicycles is provided. In addition, 14 spaces are provided on the entrance plaza, for visitors.

8. S106

The application is likely to attract a contribution towards mitigation and management of Walls Hill SSSI and towards a new CCTV camera at Torbay Harbour.

The legal agreement will link the hotel and residential development to ensure both come forward.

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

9. Other Considerations

Housing Supply

The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing with a form of development that is considered to accord with the Development Plan. As stated within this report the site is allocated and the proposals are in broad accordance with the adopted masterplan for the area. 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 that the development accords with the Development Plan and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11).

Sustainability

The proposal aims to deliver a high-quality development, with high performing, low carbon intensive building services design. The adoption of best practice building services technology, with high quality materials aims to yield a long service life, maintainable and sustainable design.

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 improved tourism facilities and housing would produce a significantly positive impact overall and help with the supply of needed quality overnight accommodation and housing.

Community Infrastructure Levy

Hotel

The proposal is for the addition to/improvement of an existing tourist facility, Torbay Council collect CIL payments for new dwellings and for larger out-of-town/district centre retail and food and drink developments. Therefore the hotel proposal would not be liable for a CIL payment.

Residential

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

Statement on Human Rights and Equalities Issues

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

Equalities Act

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

Conclusions and Reasons for Decision

The proposal would result in the modernisation of the existing site, with a significantly improved hotel. It is considered that the proposal would deliver visual, economic, and regeneration benefits with minimal harm to the character of the area.

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

The proposal is considered to be acceptable, having regard to the Local Plan, Torquay Neighbourhood Plan, and all other material considerations, subject to the completion of a legal agreement and the use of planning conditions.

Officer Recommendation

Delegate authority to the Assistant Director of Planning and Transport to grant

conditional approval subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;
2. Confirmation of an acceptable means of drainage and receipt of additional highways plans to satisfy the outstanding highway issues;
3. The completion of a Section 106 Legal Agreement by 15.01.2020 to secure necessary planning obligations in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers. Failure to meet this deadline will provide the option to refuse the application unless the applicant agrees to an extension of time to complete the agreement and allow the issue of the decision within the required timeframe.

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

Conditions

1. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
 - a) A demolition method statement;
 - b) Details of any excavation, earthworks, or piling works including the method and equipment to be used;
 - c) The parking of vehicles of site operatives and visitors;
 - d) Loading and unloading of plant and materials;
 - e) Storage of plant and materials used in constructing the development;
 - f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - g) Wheel washing facilities;
 - h) Measures to control the emission of dust, litter and dirt during construction;
 - i) Measures to minimise noise nuisance to neighbours from plant and machinery;
 - j) Construction working hours being limited to 0800hrs to 1800hrs Monday to Friday, 0800hrs to 1300hrs on Saturdays, and at no time on Sundays, Bank or Public Holidays.

The approved Statement shall detail the ways in which harm to the safety, use, and integrity of the public highway and railway will be prevented, and shall be adhered to throughout the construction period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the

interests of the convenience of highway users, having regard to Policies DE3, ER3, ER4, and TA1 of the Torbay Local Plan. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

The use of a pre-commencement condition is considered appropriate in this case as environmental and highways controls, relating to the building phase of the development, need to be agreed before the construction process begins.

2. No development above damp proof course level of the hotel development hereby approved shall take place until details of the proposed cladding materials (walls and roof) and openings for the hotel development have been submitted to and approved in writing by the Local Planning Authority. The hotel development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar.

Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan.

3. No development above damp proof course level of any of the residential dwellings development hereby approved shall take place until details of the proposed cladding materials (walls and roof) and openings for the residential aspect of the development have been submitted to and approved in writing by the Local Planning Authority. The residential aspect of the development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar.

Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan.

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

Reason: To ensure that the architectural quality of the building and its setting is

highlighted through an appropriate scheme of lighting and to prevent harm to neighbouring occupiers and bats, and to comply with Policies DE1 and DE3 of the Torbay Local Plan.

5. The development shall be carried out in strict accordance with the mitigation, compensation and enhancement measures set out in section 4 of the submitted Ecological Impact Assessment (received 06.07.2019 reference 190613-P826-ECIA). This shall include the installation of;
 - a minimum of 10 Schwegler Type 1A swift boxes (or similar) to be integrated into the walls of the new hotel building,
 - 10 Schwegler Type 1A boxes (or similar) to be installed within the residential units, above 4m in height and preferably under the eaves,
 - a minimum of 15 Schwegler Type 1B boxes (or similar) to be attached to retained trees within the site; these would be positioned above 3m height and avoid south-facing aspect.

The precise locations to be determined on-site by an ecologist, the boxes shall be installed prior to the first use of the development to which they apply and retained at all times thereafter. Once the mitigation, compensation and enhancement measures have been completed, confirmation of their implementation shall be submitted to the Local Planning Authority by a suitably qualified ecologist.

Reason: To ensure that the development duly considers protected species and biodiversity, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, and Policy TE5 of the Torquay Neighbourhood Plan.

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

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

7. No development shall take place until fences have been erected and any other protection measures put in place for the protection of trees and hedgerows to be retained in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority.

The scheme must be in accordance with the latest British Standard(s) for the protection of trees and/or hedgerows. The fences and any other protection measures required in the approved scheme shall be retained until the completion of the development and no vehicles, plant or materials shall be driven or placed within the areas enclosed by the fences.

Reason: To protect the trees and hedgerows to be retained in the interests of the amenities of the area and biodiversity, in order to accord with saved Policies C4, NC1 and DE1 of the Torbay Local Plan 2012-2030. This is required prior to commencement to ensure no damage occurs to retained trees and hedges.

8. Prior to the commencement of development a detailed arboricultural method statement, which shall include a statement detailing site monitoring and potential vehicular movement in the parkland area around retained tree stock, shall be submitted to the Council for its approval in writing. The approved arboricultural method statement measures shall be carried out in full during the demolition and construction phases. This information is required prior to the commencement of development in order to ensure that the trees protected by a Tree Preservation Order are not damaged during the construction phase.

Reason: In order to ensure no detrimental impact to the protected trees and in the interests of the amenities of the area and to accord with policy C1 of the Torbay Local Plan 2012-2030.

9. Prior to the first use of the development hereby approved a Car Parking Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Car Parking Management Strategy shall include details of car parking allocation including details of staff and visitor parking and details of signage for access and egress routes and for servicing vehicles along with the proposed measures for accommodating guest and visitor vehicles when the on-site car park is at full capacity. The development shall, at all times, be operated in accordance with the approved details. The approved signage shall be installed prior to the first use of the development, and shall be permanently retained thereafter.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030, and Policy THW1 of the Torquay Neighbourhood Plan.

10. Prior to the first occupation of the hotel, a detailed Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall outline measures to encourage the use of non-car, sustainable forms of transportation, including a scheme of implementation that accord with the

policies of the Local Plan. The approved measures shall be undertaken in accordance with the approved scheme of implementation.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030, and Policy THW1 of the Torquay Neighbourhood Plan.

11. Prior to the first occupation of any of the residential units hereby approved, a detailed Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall outline measures to encourage the use of non-car, sustainable forms of transportation, including a scheme of implementation that accord with the policies of the Local Plan. The approved measures shall be undertaken in accordance with the approved scheme of implementation.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030, and Policy THW1 of the Torquay Neighbourhood Plan.

12. Prior to the first occupation of the hotel hereby approved, the parking facilities shall be provided and thereafter permanently retained for the use of vehicles associated with the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

13. Prior to the first occupation of any of the residential dwellings hereby approved, the parking facilities, manoeuvring areas, and electric charging points shown on the approved plans shall be provided and thereafter permanently retained for the use of vehicles associated with the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

14. The development hereby approved shall not be brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway, as indicated on the approved plans. The development shall not be brought into use until the approved S278 works have been completed to the satisfaction of the Local Highway Authority.

Reason: To provide safe and sustainable access to the site for drivers, cyclists and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

15. Prior to the first use of the hotel development hereby approved, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policy DE1 of the Adopted Torbay Local.

16. Prior to the first occupation of any of the residential dwellings hereby approved, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

Reason: In interests of visual and residential amenity and in accordance with Policy DE1 of the Adopted Torbay Local.

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

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

18. Should any contamination be found during the course of the development, all construction works shall cease until such time as a scheme of remediation has been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in full accordance with the approved details.

Reason: In the interests of addressing potential contamination in accordance with Policy ER3 of the Torbay Local Plan.

19. Prior to the first occupation of the hotel hereby approved, bicycle and bin storage

shall be provided in accordance with the approved plans. The bicycle and bin storage shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan, and Policy THW6 of the Torquay Neighbourhood Plan.

20. Prior to the first occupation of any of the residential dwellings hereby approved, bicycle and bin storage shall be provided in accordance with the approved plans. The bicycle and bin storage shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan, and Policy THW6 of the Torquay Neighbourhood Plan.

21. Notwithstanding the provisions of Classes A to E of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no enlargements, improvements or other alteration shall take place to the proposed dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

22. The development shall be undertaken in full accordance with the approved Landscape and Ecology Management Plan received 18.09.2019.

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

23. The development shall be undertaken in full accordance with the approved Construction and Environmental Management Plan received 18.09.2019.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the

interests of the convenience of highway users, having regard to Policies NC1 and TA1 of the Torbay Local Plan.

Relevant Policies

Torbay Local Plan

DE1 – Design
DE3 - Development Amenity
DE4 - Building heights
H1 – New housing on identified sites
ER1 – Flood Risk
ER2 – Water Management
NC1 - Protected sites - internationally import
TO1 - Tourism, events and culture
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
SS1 - Growth Strategy for a prosperous Torbay
SS4 - The economy and employment
SS11 – Sustainable Communities
SS12 - Housing
SS13 - Five Year Housing Land Supply
TC5 - Evening and night time economy

Torquay Neighbourhood Plan

TS4 - Support for Brownfield and Greenfield development
TH1 - Housing Allocations
TH2 - Designing out crime
TH8 - Established architecture
TH9 - Parking facilities
TE1 - Tourism accommodation on brownfield sites
TE5 - Protected species habitats and biodiversity
TE7 – Marine Management Planning
THW1 - Travel Plans
THW5 - Access to sustainable transport
THW6 - Cycle storage and changing facilities
TTR2 - Sustainable Communities



Application Site Address	The Lighthouse 26 Esplanade Road Paignton TQ4 6BG
Proposal	The demolition of the existing building and the formation of a 119 bedroom hotel with ancillary facilities and associated works.
Application Number	P/2019/0804
Applicant	Mr Periakaruppan Aravindan – Fragrance UK
Agent	Ms Yolanda Alonso – Kay Elliott Architects
Date Application Valid	20 th August 2019
Decision Due Date	19 th November 2019
Extension of Time Date	
Recommendation	Delegate authority to the Assistant Director of Planning & Transport on receipt of acceptable amended plans to grant Conditional approval subject to the conditions detailed below and the completion of a legal agreement. Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Committee	The application is Major.
Planning Case Officer	Emily Elliott

Location Plan:–



Site Details

The application site relates to land currently occupied by a property known as The Lighthouse (a former night club) in Paignton. The existing building is vacant and has been boarded up for some time. The site is located on Paignton's seafront, within the Paignton Seafront, Harbourside and Green Core Tourism Investment Area, and within the Paignton Town Centre Community Investment Area.

The existing building is two storeys in height, it is not accessible by lift and the ground floor level is below the level needed to accommodate flood risk and climate change. The area to the front of site which is highly prominent given the seafront location comprises a tarmac parking area.

The building is an undesignated heritage asset located outside of a Conservation Area. The site is located within Flood Zone 3.

Description of Development

The application seeks permission to demolish the existing building and construct a development of a 119 guestroom hotel arranged over six storeys (lower ground floor to fourth floor), to include a restaurant, a gym, a spa and associated facilities.

The main pedestrian entrance would from Esplanade Road, providing direct access into the lobby, there would also be a lower ground floor access from the rear (western flank) of the building for those using the car parking facilities, which then has stairs and lifts up to the ground floor lobby area.

The lower ground floor area would include various 'back of house' facilities including linen handling, a bin store, and bike storage, WC and showers for staff. It would also include 19 parking spaces, of which 2 would be for disabled spaces, there would also be motorcycle and bicycle parking. The service entrance would be at the south west corner of the building, adjacent to a new service bay off Garfield Road. The drainage attenuation would also be sited under the al fresco terraced area.

At ground floor level would be the reception, a front desk office, a luggage room, a meeting room, a 70-cover restaurant (154 square metres) with bar facilities and al-fresco dining (117 square metres – 59 covers), WCs, kitchen, storage, and 15 guestrooms. The restaurant would occupy the eastern side of the building.

The first and second floors would each have 31 bedrooms, the third floor would have 23 bedrooms, and the fourth floor would have 19 bedrooms and roof access.

The gross internal area of the proposed hotel is 4,952 square metres, and it would have a footprint of approximately 1,022 square metres. Six guest bedrooms are Universal Access with shower. The guestrooms range in area from 16 square metres to 25 square metres.

It is anticipated that the building would be occupied by a 2/3-star hotel operator.

The proposed hotel would be of a modern design, and appear as 5 storeys in height when viewed from the Esplanade Road, as the lower ground floor would not be visible from this road. The overall height would be 18 metres, (including the plant on the roof it would take the proposed development to a height of approximately 20 metres). The height would be approximately 5.6 metres (excluding the plant) higher than the existing 2 storey building. There would be a modest area of plant set on top of the roof and these plant structures would be set well within the main elevations of the building.

The footprint of the proposed hotel building would measure around 38 metres in width along its frontage, and would have a depth of approximately 33 metres.

There would be an alfresco terrace area over two levels at the front of the proposed hotel, which the lower level is approximately 1 metre in height from street level. This area includes a scheme of landscaping.

The reception and restaurant would be located above the 1:200 flood event with sleeping accommodation located approximately 1 metre higher for additional safety. The main vehicular access would be from a private road accessed off Esplanade Road into a 19 space, enclosed car park located within the site, which vehicles would then exit onto Garfield Road.

The hotel would be clad in a traditional hierarchy of materials ranging from coursed sandstone on the lower levels, to honed sandstone on the ground floor entrance and restaurant and stucco above.

The proposed hotel development also includes the total demolition of the existing building.

Pre-Application Enquiry

DE/2019/0007 – Meeting attended by Planning Officers – The pre-application enquiry was made in order for the applicant to go to Design Review Panel and the meeting was to go over the alterations made as a result of Design Review Panel, supportive towards the evolved design as a result of the Design Review Panel.

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

Material Considerations

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

Summary of Representations

Thirty-one representations have been received, fourteen in objection (eight objections were received by the same contributor; and three objections were received by the same contributor), seven in support and one was deemed to be a representation which made points neither specifically for nor against the proposal. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues/ Material Considerations section of this report.

A summary of the main points of objection are as follows:

- Impact on small independent hotels and guest houses/B&Bs.
Planning Officer Response: *Competition between businesses is generally not regarded as being a material planning consideration, however, the principle of a hotel development and economic benefits section of the report consider the potential impacts, and also the wider context in terms of the tourism policies.*
- Loss of light
- Noise
- Overdevelopment
- Privacy/overlooking
- Sets precedent
- Traffic and access
- Visual impact
- Not in keeping with the local area
- Impact on local area
- Right to a view
Planning Officer Response: *The right to a view is not regarded as being a material planning consideration.*

The letters of support state that the proposal will;

- Provides/retains jobs

- It removes an eyesore
- It provides amenities
- Economic benefits
- Provides tourist facilities
- Makes tourist facilities better

Summary of Consultation Responses

Police Designing Out Crime Officer:

From a designing out crime, fear of crime and antisocial behaviour perspective please find the following advice and recommendations:-

Generally hotels create a regular and consistent turnover of visitors but their temporary status can lead to a relaxed approach to security and a reduced level of ownership and responsibility for their surroundings, which can make them and their property vulnerable to criminal activity. As such life should be made as difficult as possible to prevent those with criminal intent gaining access into the hotel and private areas by considering the following attributes of Crime Prevention through Environmental Design (CPTED) and the associated advice and recommendations, as this will assist in ensuring a consistent level of security throughout and opportunity for crime, fear of crime and disorder minimised:-

Access and Movement - Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security

- *There are no particular issues with regard to the internal design of the hotel but to increase safety and security there should be some form of internal access control system to reduce unwanted human movement, especially to each floor of accommodation and to staff/private areas.*

Structure & Ownership - Places that are structured so that different uses do not cause conflict.

Surveillance - Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent the creation of vulnerable areas which could attract criminal activity, the antisocial to gather or for unacceptable behaviour to go unnoticed.

- *The reception appears well positioned, maximising views out and will enable good levels of surveillance over the terrace and persons entering and leaving the building.*
- *Wherever possible external service doors should be designed so they are fitted flush to the building line to prevent creating recessed or concealed areas.*

- *There appears to be no mention of CCTV for the premises in the Design and Access Statement. It is strongly recommended that a monitored system is considered.*

CCTV cameras should be distributed throughout the building and external areas with a clear passport to compliance document in place prior to installation to ensure the system is fit for purpose. Coverage over access controlled areas, entry and exit points, bike and bin stores, under-croft parking and walkways etc. are of particular importance.

CCTV should be designed to co-ordinate with external lighting and landscaping (if applicable).

The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended for prosecution.

Physical security - Places that include necessary, well-designed security features as laid out in Secured by Design (SBD) guidance Commercial 2015 & Homes 2016:

- *All external doors and easily accessible windows should be sourced as tested and certificated products*
- *Ideally all entrance doors to guest rooms should meet PAS 24 2016 standard of security*
- *Restricted opening of any easily accessible windows (if applicable) should be adopted to prevent reach in burglaries (where offenders simply take whatever is within reach through the open window).*

For further information on police preferred security standards, specifications and products please do not hesitate to contact me.

Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime, fear of crime and a sense of safety at all times.

Parking - The police do not object in principle to the proposed development but do raise concern over the proposed parking provision and ask that this be carefully considered prior to determination.

It is appreciated that the site of the proposed hotel is in fairly close proximity to a multi-storey car park but this may not be a preferred parking option for future guests of the hotel. It is considered that guests are likely to want to park their vehicle on site or as close to the hotel as possible, as such the Police are concerned that the proposed 19 parking spaces for a 119 room hotel is likely to prove wholly inadequate and the

potential to introduce a source of conflict due to inconsiderate and/or obstructive parking in the local area.

Under-croft parking - The preferred advice would be to not construct buildings on top of parking areas but if unavoidable then please note the following recommended protective security measures:-

Project ARGUS Professional is aimed at encouraging architects, designers and planners to consider counter terrorism protective security measures within the built environment at the concept design stage. It encourages debate and demonstrates that counter terrorism measures can be designed into structures and spaces to create safer crowded places. It is fully supported by the various organisations associated with these professions.

Whilst it is not directly linked to the planning process all staff should receive counter terrorism awareness briefings such as the aforementioned Project Argus or Project Griffin to improve staff awareness and resilience of the site.

Ideally an access control system should be applied to the vehicular and pedestrian entrances to restrict unauthorised or unwanted access into the parking area.

Lighting should be at the levels recommended by BS 5489:2013 and be provided by 'on building' solutions or pole mounted luminaires wherever possible. To assist, bollard lighting works well for wayfinding or as supplementary lighting but they are not recommended from a safety and security perspective as the limited light they do emit is generally at the wrong height to aid facial recognition.

The cycle parking area must be secure and have an access control facility and also monitored by CCTV.

The parking area, pedestrian walkways and all external doors and windows from the parking area must be covered by CCTV.

Walls should have light colour finishes to maximise the effectiveness of lighting as this will reduce the luminaires required to achieve an acceptable light level and assist the functions of the CCTV.

It is hoped that crime prevention and safety measures as detailed above would be negotiated into any approval without having to resort to conditions but in the event that this is not desirable I would be grateful if consideration could be given for the following to be worded into an appropriate condition/s:-

A scheme acknowledging designing out crime and/or crime prevention shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall include details of a monitored CCTV system with a clear passport to compliance document which should include how the CCTV shall cover all external areas of the building, including public walkways, parking and entrance and exit doors and include details of an external lighting plan.

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

Torbay Council Corporate Security and CCTV Manager:

We are looking at seeking planning contributions regarding the installation of a new CCTV Camera.

The new camera would be sited at the junction of Garfield road and Esplanade Road. The CCTV system in the street has been modernised in front of Vue Cinema and on the Esplanade, this has increased our visibility across this area but currently we don't have anything that thoroughly covers this area. With the increased footfall / Visiting Families this development will bring the additional camera would increase our field of view along Esplanade Road, it would also give us coverage of Garfield road down to the entrance of Victoria Car Park. Increasing our field of view will increase our proactive monitoring, this in turn will bring added security for people using this area and surrounding areas and the hotel itself.

Therefore under Policy TC5 Evening and Night time Economy, I would be looking for them to make an appropriate contribution towards the cost of any monitoring and its subsequent maintenance. In this case that would be to fund a new camera located at the junction of Garfield road and Esplanade Road.

Current costing of the camera along with the installation are detailed below.

Products Qty	Part Numbers	Description
1	610570	BX520 HD IR PTZ External Pendant
1	130176	High PoE Injector 95W
1	130182	pole mount
1	440010-U	IndigoUltra - SUP for single device connection
1		license
1		Huawei switch
1	110060	24V Power Supply - 3.33A
1	NBE-M5-16	NANOBEAM M5
1	MONT-KIT-85C	Mount Kit for 19 dBi 5 GHz subscriber terminal:
1		300x300 steel box ip65
1	OSSL	commissioning

Installation and Commission = £3,980.39 ex VAT

Torbay Development Agency Senior Economic Development Officer:

This letter is in support of the proposed planning application for the Lighthouse redevelopment, Paignton.

The proposals for a new, purpose built, 117 bed, internationally recognised 2-3 star hotel with gym restaurant, bar and outdoor dining is a welcome investment to Torbay and the English Riviera.

Situated on Paignton's popular seafront, the hotel is well positioned to benefit from the English Riviera UNESCO Global Geopark. The new hotel will support the development of Torbay's visitor economy, currently worth c£430m, attracting 4.6m visitors a year. The proposed hotel investment aligns to the ambitions of the English Riviera's Destination Management Plan 2017-2021 specifically:

- Attracting new visitors (particularly international)*
- Attracting investment*
- Improving the quality of accommodation*
- Improving hotel occupancy throughout the year*

The proposals present a purpose built hotel with facilities which the modern fully independent traveller (FIT) expects. The new hotel will help to make the destination more attractive to visitors, satisfying the growing demand by both domestic and international visitors for high quality accommodation, open all year round.

For overseas visitors especially, having an internationally recognised hotel brand available to book online, all year round will undoubtedly attract new visitors to the destination. The demand for quality, all year round holidays in the UK is continuing, with domestic 'staycations' expected to increase and importantly, moving into the 'shoulder' and winter months.

TDA projects that the proposed development will create:

- Accommodation for around 10,810 net new visitors, which will create around £2,784,904 of new spend.*
- 39 direct FTE jobs, plus 6 indirect FTEs (based on 1 job per 3 bedrooms).*
- Direct net GVA of £492,481.63 per year (assuming 75% occupancy rate), and that it will take around 25% of visitors away from other local accommodation providers).*
- Additional tourism expenditure of £147,744.49 indirect benefit.*

This is a welcome investment to support the development of Torbay's visitor economy and develop local skills. We encourage the operator to link with South Devon College to develop accessible apprenticeships and skills, and to also attend Torbay's annual recruitment events to employ local talent.

Torbay Council Senior Environmental Health Officer:

I would confirm that that although I do not have any objections to the above Planning Application, I have the following comments to make:

Construction/Demolition Management Plan:

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

- *Procedures for maintaining good neighbour relations including complaint management.*
- *All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.*
- *Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.*
- *Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.*
- *Control measures for dust and other air-borne pollutants.*

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

Torbay Council Drainage Engineer:

The proposed development lies within Flood Zone 3 and the developer has submitted a site specific flood risk assessment in support of the planning application.

Within the site specific flood risk assessment the developer has identified the flood risks associated with the site and the floor levels for hotel bedrooms have been designed to a level above the 1 in 200 year flood level plus 600mm freeboard. In addition for areas of the building g below this flood level the developer has identified flood mitigation works which are to be incorporated within the building.

The proposed drainage strategy complies with the requirements of the Torbay Critical Drainage Area with surface water discharging to the culverted watercourse at a controlled discharge rate limited to 1.5l/sec.

The developer has submitted calculations showing how the 1 in 10 year Greenfield run-off rate has been calculated.

Within the site specific flood risk assessment hydraulic calculations have been included for a proposed surface water system.

It should be noted that the site specific flood risk assessment assumes that the sea defence at Paignton is to be maintained for the life of the development. As a result of climate change this sea defence will not provide significant flood protection in the future and therefore Torbay Council are currently proposing significant works to improve the level of this coastal defence. Should the existing flood defence structure be breached the flood risk associated with the development would be significant and therefore the Council should seek Section 106 funding from the developer as a contribution to the proposed works to the coastal defences at Paignton.

Providing the surface water drainage is constructed in accordance with the submitted hydraulic calculations and the development is constructed in accordance with the site specific flood risk assessment, I have no objections on drainage grounds to planning permission being granted.

Torbay Council Drainage Engineer – Update:

The S106 contribution to the Paignton and Preston Coastal Defence Scheme has been based on the area protected behind the existing sea wall for the 1 in 10 year storm event plus 50 years of climate change. This storm event has been chosen as the design horizon of the scheme is for 50 years of climate change.

The estimated scheme cost for the Paignton and Preston Coastal Defence Scheme is in the sum of £3,750,000.

Based on the 1 in 10 year storm event plus 50 years of climate change flood maps produced as part of the Torbay Coastal Defences Climate Change Adaptation Report, the overall flooded area behind the existing sea walls is as follows:



Paignton = 165,153m²
Preston = 33,605m²
Total flooded area = 198,758m²

The scheme cost per m² of area protected by the coastal defence scheme is therefore:

$$3,750,000/198,758 = \text{£}18.87/\text{m}^2$$

The overall site area for the proposed development at The Lighthouse Hotel in Paignton is 1,630m².

Therefore the S106 contribution from the development towards the coastal defence scheme is as follows:

$$1,630\text{m}^2 \times \text{£}18.87 = \text{£}30,758.10$$

Environment Agency:

We confirm that we do not object to the proposal as submitted subject to your authority deeming that both the Sequential Test and part 1 of the Exception Test (i.e there are wider sustainability benefits to the community that outweigh flood risk) can be satisfied.

The proposed development lies within Flood Zone 3 and is at risk of flooding from numerous sources, flooding from the sea being the predominant risk.

We have reviewed the applicants Flood Risk Assessment and deem that this is an accurate reflection of the risks flooding poses over the lifetime of development. The form and layout of the proposal is such that all 'more vulnerable' uses would be above the predicted design flood level the sea poses including an allowance for climate change over the developments potential lifetime.

We advise that flood warning procedures be drawn up including a management plan for the purpose of safeguarding, as much as is practicable, the welfare of occupants of the building, including those with limited mobility.

The Environment Agency would support any suggested recommendation to obtain S106 funding towards the maintenance of, and indeed improvements to, Paignton Sea defences, a need that Torbay Council recognises, given that the proposed development would benefit from the continued presence of the asset.

South West Water:

No objection or comment.

Torbay Council Senior Tree and Landscape Officer:

Having looked at the proposal I can confirm that no arboricultural input is required during the design phase of the development. However, I would request that if approved a landscape scheme should be conditioned to be submitted prior commencement of the development.

Torbay Council Waste Client Manager:

No objection to the proposed development.

Paignton Neighbourhood Forum:

The Forum is not raising an objection to this application as it accords with the Paignton Neighbourhood Plan (PNP) - PNP1 (Para 6.17) - "Development proposals will be supported which: a) provide new employment on sites able to meet infrastructure needs" and specifically:

Policy PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area:

"To improve tourism opportunities in the seafront Core Tourism Investment Area shown (Fig. 6.8 page 46) further investment in tourist accommodation will be actively supported".

However, account needs to be taken of:

1. Policy PNP 1(c) Para 6.48, Design Principles:

Development proposals, should where possible and appropriate to the scale and size of the proposal:

1. Strengthen local identity by:

- ii) being in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials;*
- iii) respecting important landscape or townscape vistas.*
- iv) protecting residential amenity in terms of noise, air, or light pollution.*

(Taken together with planning application P/2018/0804, the 'cube' effect of two similar looking buildings is considered to be inappropriate).

Policy PNP 1(e)

Commercial Development: New commercial development should aim to achieve where appropriate and subject to viability:

- i) the highest standards of sustainable construction such as Passivhaus or EnerPHit;*
- and ii) out of sight waste storage in seagull proof structures for not less than two wheelie bins of 1100 litres in size for each commercial unit proposed.*

Policy PNP1 (h)

New development should aim to achieve where appropriate and subject to viability: i) electric vehicle charging points.

Policy PNP1 (i)

Developments will be required to comply with all relevant drainage and flood risk policy. 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 site location is in a significant flood risk area and risk of overspill pollution to the designated Torbay Marine Special Area of Conservation).

Policy PNP15

To reduce the risk of flooding within the Town Centre Area defined by the inset plan (Fig. 6.3 page 31) development proposals must comply with all existing Flood Risk policy requirements.

Proposals to remove buildings, structures, or other physical features that act as a brake on areas liable to flood from the sea, inland water flow, or drainage network, will not be supported unless alternative compensating proposals are submitted and agreed;

Where appropriate new developments will be required to demonstrate how surface water will be managed to achieve the reduction of the amount of surface water entering the combined sewer network including water harvesting for use within the development, and by temporary storage solutions so that surcharging of the ground and sewer network is reduced during periods of intense rainfall;

The removal of hard surface areas and their replacement with soft surface landscaping will be encouraged in all developments to increase natural drainage and thereby increase capacity in the combined sewer network for additional development proposed in the Town Centre; and

Where appropriate, development proposals in locations at risk of flooding from seawater will be required to make financial contributions towards the strengthening of sea defences in accordance with Torbay Council CIL regime or S106 Obligation.

Parking:

It is considered that more thought needs to be given to potential parking problems associated with similar inadequate parking problems identified with the neighbouring site of P/2018/0804 (old Park Hotel). There is too little car parking for both proposed hotel sites coupled with an over reliance on nearby but inadequate public parking. Further to this, no account has been taken into account for parking requirements for special functions.

Torbay Council Highways Engineer:

As Strategic Planning will lead on this one, the number of proposed parking Spaces will need to be checked for acceptability.

Highways Technical issues are:

- *One Way markings on the entrance of the car park off the private road.*
- *No Entry and left turn arrow on the exit of the car park on too Garfield Road.*
- *As the build out on Garfield Road will be on the Highway and will erase the beginning of the existing cycle lane, bollards will be required on each end of the build out and one on the Beginning of the existing footway, with hatching approaching the build out and give way markings on the exit.*
- *Reinstate cycle Lane and no Loading Markings.*
- *Reinstate existing vehicle crossing to full height kerb footway on Esplanade Road.*
- *Provide tactile paving on Esplanade Road at pedestrian crossing with Garfield Road.*

Torbay Council Senior Strategy and Project Delivery Officer: In light of the concerns expressed by the Highway Engineer revisions have been suggested to the applicant with a view to resolving and a response is awaited.

Torbay Design Review Panel:

14.12.2018 (Note the Design Review Panel considered the proposals at the pre-application stage and their observations represent a material planning consideration). *We discussed the location of the site within the broader context of the seafront and again noted the 'crank', the shift, in the building line to Esplanade Road and planning grid of the hinterlands here. The site marks the final one that is currently influenced by the alignment which prevails to the north, whereas the Park Hotel project site has been allied to the alignment to the south.*

The existing buildings seem to have very little architectural merit and if an historic core of fabric still exists within the extended complex then it could have very little of the original qualities of the original 'Oldenburg Villa' remaining. We see no reason to argue against a development strategy for wholesale demolition and replacement.

You drew our attention to the presence of the existing property located immediately to the west along Garfield Road – having a bay window presentation to its east elevation, which currently benefits from views out to sea. We note your intention to respect this arrangement, the existing building line does this with some generosity and closer analysis may be helpful in ensuring efficient use of the site, whilst preserving this sightline (or part of it).

The 'Heritage Spine' that has been identified in emerging policy includes this part of Garfield Road and we might expect that, in time, this will mean stronger footfall and pedestrian movement – making this street a good location for the main entrance of the

new hotel. However, we also note the one-way traffic management that is in place for this network of streets and this frustrates a direct approach by vehicles to a drop off point in Garfield Road when approaching from The Esplanade.

We commend the ideas that are emerging in your East-West cross section. These neatly deal with the issues relating to flood risk, whilst generating extra height/volume in the main public areas of the building. Inevitably, entrance at street level will be set below the main (upper) ground level and the graceful management of this climb up to reception level will be a key determinant of the final quality of the experience for guests and visitors. This needs to be achieved both within the building and as part of the landscape design of the 'terrace'.

If we accept that drop off to the north, in the private street, is the 'best compromise' amongst competing alternatives (as discussed above) then we strongly believe that a direct entrance into the building from the north is therefore needed. The arrangement currently shown would involve guests returning to the eastern front and negotiating external steps or ramps and a considerable journey before shelter is achieved. The planning of the interior would suggest that direct access to the lower lobby might easily and directly be arranged and from there to reception?

The arrangement of external steps and ramps which are let into the terraced areas are not very elegantly handled (should be more seamlessly integrated) and the awkward approach to the front door (angled away from the main approach) does not anticipate a natural or graceful pedestrian flow. The 45 degree chamfer here seems to generate very little benefit. With the entrance being located towards the northern part of the eastern elevation, then a significant 'invitation' and welcome needs to be presented by the landscaped area to receive patrons approaching from Garfield Road – only a mean set of steps is currently shown here...

In plan, we see that the main structural grid, determined initially by the car park arrangements, and then corrupted by the stepping back of the form to the northern edge, is generating some awkward conflicts and relates quite poorly to some of the bedroom interior planning. The attempt to maximise floor area (as evidenced by the close adherence in the building form to the allowable envelope predicted by daylight studies) is generating an inelegant solution. A clearer, more suitable, structural concept needs to be discovered and for this to then be more rationally a generator of the design. We wonder whether the northern arm of what is a horseshoe plan-form at upper levels might not be aligned to the street edge rather than be orthogonal with the grid to the south? That is, the northern wing of the hotel aligns to the north grid (as stated above) and the southern wing aligns to the southern grid and Garfield Road. Differences in geometry might then be resolved within the lightwell part of the plan.

The form that has been generated by a sincere respect for 'rights of light' of neighbouring properties has many steps and cutbacks. The complexity is unfortunate

and the architectural expression lacks a clear idea or concept – although accommodation may be lost, we think that a simplified form would create a much more satisfactory design and could have financial economies in terms of build costs.

With the structural grid better resolved, we would then hope to see its influence expressed in the general composition – the current expression tends towards the cloaking of the underlying frame. The calm handling of the facades for your consented Park Hotel scheme alongside now provides a useful precedent. We see no reason for a ‘forced variety’ on this site. On the contrary, we see merit in architectural consistency or, at least, consistency of materials (just as there was in the 19th century). In responding to the particularities of the brief then differences will emerge, but a common origin might be useful in thinking about the architectural language for these linked sites. Unlike The Park, this site does seem to be sitting in an asymmetrical setting – closer analysis of the immediate context may be fruitful in determining a more subtle compositional strategy.

The notion of the building sitting on a plinth is supported, but we wonder if the language / materiality of this base might permeate upwards to embrace the public areas in some way?

The planting shown within the front terraced area seems at this stage to be inconsequential – better to include say one significant tree? The planting in Torbay is so distinctive and hopefully local distinctive species and strategies can be adopted? We would make a plea for a more exotic, ebullient planting for this terrace and would encourage the Local Authority to make this a requirement for all future developments along the Esplanade.

The central lightwell / courtyard is obviously minimal, any opportunities to increase this space would be beneficial (the alignment of the north façade and the potential squeezing of the view corridor to the south, may help?). Think carefully about the nature of fenestration into this small space and do consider acoustic nuisance that may be generated on hot summer evenings if naturally venting here. An intensive green roof is of questionable value; consider an extensive (lightweight) solution or none at all, given the poor levels of light available.

The fins shown on the façade seems to be proposed ‘too early’ as a device – we welcome the consideration of passive solar shading and other low-energy tactics, but the general composition needs to be more resolved in the first instance. Likewise, the use of curved corners may be part of the language that is eventually adopted, but these should be kept under review as the design evolves.

The appearance of the building at night-time – lighting and signage – will be an important consideration and offers further opportunities to the design.

As discussed above, the comments made by the DRP were formed part of the pre-application discussions and a significantly revised scheme emerged in response.

Key Issues/Material Considerations

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

1. The demolition of the existing building and principle of a hotel development
2. Economic benefits
3. Design and visual impact
4. Impact on amenity
5. Trees and ecology
6. Flooding and drainage
7. Highways impact
8. S106

1. The demolition of the existing building and principle of a hotel development

As the Lighthouse is not a listed building, nor is it within a conservation area, the applicant has applied for an application for Prior Notification of Proposed Demolition under Schedule 2, Part 11 of The Town and Country Planning (General Permitted Development) (England) Order 2015.

The purpose of this control is to give local planning authorities the opportunity to regulate the details of demolition in order to minimise the impact of that activity on local amenity. A Prior Notification of Proposed Demolition therefore assumes that the demolition of the building is acceptable and without being protected the Local Authority would be unable to prevent its demolition. The principle of demolition and redevelopment is considered to be acceptable.

However given the prominence of the site location it is considered imperative that any replacement development should be of a quality design.

Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to increase overall spend. Proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark are encouraged by this Policy. Policy TO1 states that the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services. This will be achieved by supporting the principle of new tourist accommodation subject to other

policies in the plan and the creation of new high quality tourism accommodation in sustainable, accessible locations.

Policy TO1 states that Core Tourism Investment Areas are the main focus for investment in tourism which includes Paignton Seafront. These are intended to ensure the retention and improvement of sufficient high quality accommodation and attractions in order to provide a critical mass needed by a premier resort. The new hotel provides a larger, modern and improved tourist facility within an area allocated for such developments within the Local Plan, and in place of an unsightly, vacant building. Therefore the principle of the new hotel is deemed to be acceptable, subject to compliance with other relevant Local Plan Policies.

Policy SDP1 of the Local Plan states that the role of Paignton Seafront as a leisure and employment hub will be promoted and enhanced, whilst protecting the areas environmental assets. The proposal provides additional job and modern leisure facilities.

Policy PNP1 of the Paignton Neighbourhood Plan states development proposals will be supported which provide new employment on sites able to meet infrastructure needs. The Paignton Neighbourhood Forum has stated that the proposed development accords with Policy PNP1. Policy PNP4 of the Paignton Neighbourhood Plan states that improvement of the seafront will be encouraged including upgrading the public realm and public shelters to provide enhanced seating, weather protection and information facilities that improve the tourism offer. Policy PNP14 of the Paignton Neighbourhood Plan states that to improve tourism opportunities in the seafront Core Tourism Investment Area, further investment in tourist accommodation will be actively supported. The proposed development would provide a modern hotel facility within an area that would upgrade the public realm and provide an improvement to the tourism sector. It should be noted that the site was identified as a potential site primarily for housing in the Local Plan, however this was not taken forward in the adoption of the Paignton Neighbourhood Plan. It is considered that a hotel use in the Core Tourism Investment Area is more appropriate than housing.

Bearing the aforementioned points in mind, the principle of a hotel in this location is deemed to be acceptable and would accord with the relevant development plan policies identified.

2. Economic benefits

Policy SS1 of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort. Policy SS4 of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it enables expansion and

diversification of the economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism, hotel and catering. The submitted information states that new hotel would be likely to create 50 full- and part-time jobs. During the construction phase there are likely to be additional jobs created.

Policy SS11 of the Local Plan details that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle. The proposed development would regenerate the site and improve the social and economic conditions within the locality, therefore it is considered to comply with Policy SS11 of the Local Plan.

Policy TC5 of the Local Plan states that the Council supports, in principle, development that helps create a vibrant, diverse evening and night time economy within the town centres, seafront and harbour areas of the Bay. The proposed hotel development would include a gym, spa, restaurant and bar, in addition to hotel accommodation, on brownfield land that is currently under-utilised, and would therefore contribute in adding vibrancy and a complementary offer to that currently available in the centre, attracting people of all ages. The proposal is deemed to comply with Policy TC5 of the Local Plan.

An estimated 86,724 guests would stay at the new hotel annually. The economic benefits of the hotel are estimated to amount to approximately £2 million per annum in additional net tourism expenditure, with guests going out to eat, drink and be entertained in the local area. A direct investment of approximately £13 million will be made in construction and completion of the hotel itself. The job creation and benefits to the local economy are considered to be material and should be regarded as being beneficial.

A number of objections to the proposed hotel relate to competition, however business completion is not generally held to be a material planning consideration.

The applicant has advised that the building suffers from the following underlying issues:

- The building is not accessible by lift.
- The ground floor is below the level needed to accommodate flood risk and climate change.
- Parking dominates the sea facing frontage.

The Lighthouse has been vacant for a number of years. The applicant states that the existing building, due to its layout, facilities, size, and condition is unable to meet the needs of a hotel in the 21st Century. The new hotel planned for the site will be one of

the first purpose-built hotel built in Esplanade Road on Paignton seafront for over 100 years.

The Council's Destination Management Plan sets out visitor demands and expectations for holiday accommodation and sets out that, as a resort, Torbay still needs to increase the overall quality of its accommodation offer and introduce more branded stock. The site is located in close proximity to Paignton town centre and the project broadly accords with the Council's town centre regeneration aspirations.

The applicant states that the new hotel will create 50 full- and part-time jobs plus additional employment during the construction phase. It is anticipated that the hotel will accommodate up to 238 guests at any one time and will operate 12 months a year.

The applicant will be investing approximately £13 million into the site. When adopting a conservative occupancy rate of 80%, there will be over 86,724 sleepers per annum. This could generate up to £2 million extra leisure spend per annum in Torbay. The proposed development will inject cash into the local economy through staffing, associated employment, and increased customer spend in Paignton and Torbay, which could increase the Gross Value Added (GVA) to in excess of £3.5m per annum.

On balance, it is anticipated that the proposal would make a positive contribution to the local economy compared to the existing situation. As such, it is considered that the proposal corresponds with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan, and would bring economic benefits to the Bay compared to the existing situation.

3. Design and visual impact

The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Policy DE1 of the Local Plan 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.

A key concern, which is echoed in the representations, concerns the loss of the historic

character of the existing building and the impact that the addition of a large, modern building would have on the character of the seafront.

Policy PNP1(c) Design Principles of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials. Although the Paignton Neighbourhood Forum support improvements to tourist facilities, their comments on the application state that the proposed development when considered with the approved redevelopment of the former Park Hotel would be inappropriate as the two similar looking buildings (the proposed and that approved on the site of the former Park Hotel) would create a 'cube' effect.

The proposed building is sited to align with the building lines of properties along Esplanade Road. The principle elevation is stepped further forward of the existing building. The orientation of the proposed hotel building calls for a highly glazed principal, eastern elevation which would provide wide-reaching sea views and a higher standard of available accommodation. In order to overcome the possibility of the building overheating the design proposes passive measures of vertical solar shading which avoids mechanical activation, has minimal impact on views from the building, and creates a strong rhythm and identity to the eastern elevation.

The external materials proposed on the principle elevation move away from the existing rendered appearance of many of the properties on the Esplanade to a more traditional hierarchy of materials for Paignton which includes coursed sandstone on the lower levels and honed sandstone on the ground floor entrance and restaurant, with stucco above.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The reception is situated on the north-east corner which is considered to be a prime location in terms of legibility for the approach from the town, train station, public car park and seafront. The principle elevation accommodates access for all pedestrian users and provides an active frontage with the proposed alfresco dining. A loading bay is located on the southern side of the proposed development with direct access from Garfield Road.

The proposed hotel has clear separation of vehicular and pedestrian routes. The vehicular movement is kept to the non-sea-facing elevation with pedestrian movement to the east where the restaurant and external terraces can maximise the views.

The applicants have complied with a number of the suggestions received from the advisory Torbay Design Review Panel.

Bearing the above points in mind the proposal is deemed to comply with Policy DE1

of the Local Plan which, among other things, requires development to be uncluttered and attractive, and develop distinctive character in townscape and landscape terms, relate to the surrounding built environment in terms of scale, height and massing and have a clear urban structure and grain that integrates with the surrounding context.

The applicants have addressed a number of the suggestions received from the advisory Torbay Design Review Panel (the comments of which are a material planning consideration) along with the Council's pre-application advice provided by planning officers. For the avoidance of doubt pre-application advice is not binding on the Council in terms of the decisions made at the application stage.

To the south of site lies the former Park Hotel development which has recently undergone the demolition, this is a regenerative 161-bedroom hotel development with associated leisure facilities. The approved hotel would sit alongside the site with Garfield Road separating the two. The approved hotel would comprise a 5 storey building above street level on Esplanade Road.

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

The policy goes on to state that new buildings above the prevailing height will be supported where they;

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

The proposed height of the hotel represents an increase from 2 to 5 storeys, an overall additional height of 5.4 metres compared to the existing situation (excluding the plant equipment associated with the redevelopment, which would be located within the roof space, and around 2.2 metres in height). The applicant states that the proposed massing follows the predominant building form seen along the Esplanade with subservient accommodation behind and goes on to state that the proposal creates a clear, bold, honest compositional strategy allowing the grander Esplanade elevation to maximise sea views whilst the lower rear building responds to the scale of the terraced houses behind.

In the context of the immediate neighbouring properties and the wider Esplanade, the increase in height is not considered to be significantly higher so as to be contrary to this policy, or harmful to the local character. In any case it is considered that the addition of the taller hotel building would meet the criteria listed above in terms of enhancing the vitality of the area, providing socio-economic benefits, and contributing to the regeneration of Torbay through providing quality tourist accommodation with improved facilities and the creation of jobs. It should be noted that the adjacent neighbouring site, which formerly had the Park Hotel situated on it, has permission to become a modern, contemporary 5 storey hotel. It is considered that the proposed design, although differing from the broader Victorian character would make a positive contribution to the visual amenities of the area. It is deemed that the scheme complies with Policy DE4 of the Local Plan.

Whilst the concerns of the Paignton Neighbourhood Plan forum regarding the creation of 'cube' effect, are noted it is considered that there is sufficient space between the proposed development and adjacent buildings including the approved new hotel on the adjacent site for the appearance of the seafront to retain a suitable character. Careful landscaping should also help to assimilate the proposed building into its surroundings. Therefore, on balance, it is considered that the proposal, given its siting, scale and design, along with the local context, would not result in unacceptable harm to the character of the area. Conditions are recommended to secure the high quality materials proposed; a scheme of hard and soft landscaping; refuse storage (public and private); boundary treatment; and details of any external plant equipment. Subject to these conditions, the proposal is considered to be in accordance with Policies DE1, DE4, and SS11 of the Local Plan, and the guidance contained in the NPPF.

5. Impact on Amenity

Policy DE3 requires that all development should provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring or surrounding uses.

Representations to the application have also referred to the impact the proposal would have on the privacy and light levels available to the occupiers of properties to the west (rear of the site) and noise.

The nearest properties are 'Antony Court' and No.43 Garfield Road, which both are occupied as residential accommodation. When considering the impact on the surrounding properties, the property to the west, No.43 Garfield Road would have a separation distance of approximately 12 metres from the side elevation of No.43 Garfield Road and the rear (west) elevation of the new hotel. This property is currently separated from the existing site by approximately 7 metres, with the existing building

on site being some 11 metres in height. The site's existing western boundary is formed of a mixture of hard and soft boundary treatments. The proposal would result in a 3 storey elevation, measuring approximately 12 metres in height approximately 12 metres from this side elevation of No.43 Garfield Road. On the side elevation of No.43 Garfield Road at ground floor level, there are two large bay windows, and at first floor there is one large bay window and a further window. There would also be a degree of inter-visibility between the rear windows of the proposed hotel and the aforementioned side windows at the neighbouring property.

The application is supported by a 'Daylight and Sunlight Study'. The report states that the Inn on the Green and the former Park Hotel appear to be non-domestic properties which therefore do not have the requirement for daylight. However, all other properties appear to have a requirement for daylight and all main habitable room windows tested at these properties pass the Vertical Sky Component (VSC) test, with the exception of windows 76 and 77 at Anthony Court. However, the room served by windows 76 and 77 is also served by window 75, and all windows are of equal size. The BRE guide acknowledges that if a room has two or more windows of equal size, the mean of their VSC's may be taken, to which the windows then pass the test. All rooms tested at these properties pass the Daylight Distribution test, with the exception of the rooms served by window 68 at 43 Garfield Road and window 91 at Anthony Court. However, the rooms served by these windows only fall marginally short of the Daylight Distribution recommendations, achieving before/after ratios of 0.76 and 0.73 respectively (against a BRE recommendation of 0.8). Additionally, the rooms served by windows 68 and 91 are also likely to only serve bedrooms. Whilst under the BRE guide a universal test is applied to all room types, the BRE guide explains that daylight in bedrooms is less important than in other habitable rooms such as kitchens and living rooms. Therefore, the report concludes that the proposed development design is acceptable when considering the impact of daylight on adjacent properties. The results show that 54% or more of the area of each amenity space will receive at least two hours of sunlight on 21st March, this exceeds the BRE recommendation of 50%. The report concludes that the proposed development therefore passes the BRE overshadowing to gardens and open spaces test.

Access to natural light and outlook is considered to be significant, given the neighbouring properties providing residential accommodation. It is also noted that the locality has a built-up, urban character befitting its status as a tourist resort. To the extent that the proposal would result in a loss of outlook and natural light, it is considered that it would not be unacceptable under the circumstances. The business in question may also benefit from the redevelopment of what is currently a disused site, which is likely to bring significant benefits to the area and the local tourism offer. In terms of the potential for inter-visibility between windows, the western elevation of the proposed development would include minimal openings, the closest of which to No.43 Garfield Road are some 12 metres away and 'Antony Court' are some 10 metres away, these openings would serve the hallways to access the guestrooms. It should

also be noted that such windows are at a tangent and therefore the angle would not provide direct inter-visibility. It is considered not necessary to condition the hallway windows to be obscurely glazed on the western elevation of the proposed development, as the windows are to serve the hotel hallways with light rather than a vantage point for guests to overlook the adjacent properties.

Otherwise, it is considered that the amenities of the occupiers of the properties along Garfield Road and the private road would not be unacceptably affected by the additional built form on the Lighthouse site, in terms of their outlook, privacy, or access to light. It is considered that the more intense use of the site would not result in any unacceptable nuisance, subject to the use of conditions to secure the details of plant and other equipment, along with a construction management plan. Most of the external activity associated with the proposed development would occur at the front of the building, off Esplanade Road. The proposed vehicular arrangement sees vehicles enter and leave the hotel through the site's northern and southern boundaries and, under these circumstances, it is considered that the proposal would not result in unacceptable nuisance to the amenities of neighbours.

It is important to explain that the proposed development would not be without some impact upon the amenities of neighbouring properties, however, as explained in the assessment these impacts are not considered to be so harmful as to warrant the refusal of planning permission. Furthermore, the use of planning conditions will provide some mitigation, and as such given the proposed siting, scale, design, and relationship to neighbours, it is considered that the proposal would not result in unacceptable harm to the amenities of existing residents or hotel guests. As such, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

6. Trees and ecology

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

The site includes patches of vegetation that are low value shrubs and trees. The Council's Senior Tree and Landscape Officer has reviewed the proposal and confirmed that no arboricultural input is required during the design phase of the development. However, if minded to approve the proposed development then a suitable landscaping scheme should be employed through a planning condition, which would be prior commencement of the development.

Policy NC1 of the Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments and fauna and flora, commensurate to their importance.

The submitted Protected Species Assessment Report states that there was no evidence of bats found. However, the building contained several potential bat roost features suitable to support individual or low numbers of crevice dwelling bats. The report stated that the site provides a suitable habitat for nesting birds, of which are present are likely to be common/widespread species. The report stated that the presence of any other legally protected species was considered unlikely.

The site is within an urban area and is isolated from areas of suitable bat foraging habitat or green corridors that are suitable for bat commuting/travelling. Due to the presence of potential roost features and taking into account the sites isolation from suitable foraging/commuting habitat, the building was considered to have 'low' suitability for roosting bats.

The Ecological Impact Assessment recommends the following mitigation and compensation measures required to minimise/prevent significant impacts to ecological features;

- Provision of replacement roosting opportunities for bats through the provision of the installation of two bat tubes (Schwegler 2F or similar approved).
- Provision of nesting opportunities for four Schwegler Type 1a Swift boxes (or similar approved) would be located on the exterior of the hotel.

A Habitat Regulation Assessment for the site has been undertaken by Torbay Council. At the time of publishing this report, the Habitat Regulation Assessment is still been carried out, an update to Members will be provided at Planning Committee.

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

7. Flooding and Drainage

Policy ER1 of the Local Plan states that development must be safe for its lifetime, taking account of its future use, function and government projections of how the risk of flooding may change in response to climate change. Development proposals will be expected to maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy PNP1(i) of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy. Policy PNP15 of the Paignton Neighbourhood Plan states that reduce the risk of flooding within the Town Centre Area, development proposals must comply with all existing flood risk policy requirements.

The proposed development lies within Flood Zone 3 and is at risk of flooding from numerous sources, flooding from the sea being the predominant risk. South West Water raise no objections to the proposed development. The Environment Agency do

not object to the proposed development, subject to your authority deeming that both the Sequential Test and part 1 of the Exception Test (i.e there are wider sustainability benefits to the community that outweigh flood risk) can be satisfied.

The guidance contained in the NPPF requires the Local Planning Authority to apply the Sequential Test to the proposal, where the objective is to direct development towards land at the lowest risk of flooding. The proposal would result in the erection of a new hotel building which is located within flood zone 3. It is considered that the proposal would result in public benefits with the site in question being used to provide an improved tourist facility on the Paignton Esplanade which is within the Core Tourism Investment Area, with additional regeneration benefits for the Town Centre. Although a new hotel may be sited elsewhere, in within flood zone 1, in this case (i.e. the erection of a hotel in a prominent location on Paignton seafront and within the Core Tourism Investment Area) there are not considered to be more appropriate sites within flood zone 1 that could accommodate the development, and it is therefore considered that it passes the Sequential Test.

According to the PPG, the proposed less vulnerable and more vulnerable uses proposed are deemed to be appropriate uses within flood zone 3. The Exceptions Test requires the Council to consider whether there are wider sustainability benefits to the community of allowing the proposal, and whether it could be made sufficiently safe for its lifetime. As discussed, it is considered that the proposed development would result in wider sustainability benefits, by providing a modern, contemporary hotel, with associated economic and regeneration benefits contributing to the vibrancy of the Town Centre and the Core Tourism Investment Area. In terms of the proposal's safety, the submitted Flood Risk Assessment makes a number of recommendations intended to ensure this.

Should the existing flood defence structure be breached the flood risk associated with the development would be significant and therefore the Council should seek Section 106 funding from the developer as a contribution to the proposed works to the coastal defences at Paignton.

The Environment Agency, SWW and the Council's Drainage Officer have raised no objections subject to the use of conditions requiring adherence to the submitted Flood Risk Assessment and the approval of a flood management scheme.

Subject to the use of the aforementioned condition the proposal is considered to be acceptable, having regard to Policy ER1 of the Local Plan, Policies PNP1(i) and PNP15 of the Paignton Neighbourhood Plan, the NPPF, and the PPG.

8. Highway Impact

Policies TA2 of the Local Plan states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of

accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. The site is just outside of the town centre allocation. Appendix F of the Local Plan provides figures on car parking requirements, for hotels this states that 1 space per bedroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

Policy PNP1(e) of the Paignton Neighbourhood Plan states new commercial development should aim to achieve where appropriate and subject to viability: the highest standards of sustainable construction such as Passivhaus or EnerPHit; and out of sight waste storage in seagull proof structures for not less than two wheelie bins of 1100 litres in size for each commercial unit proposed. Policy PNP1(h) of the Paignton Neighbourhood Plan states that new development should aim to achieve where appropriate and subject to viability electric vehicle charging points. The site is just outside of the town centre allocation.

Objections received have referred to concerns with regards to the lack of parking provided by the development and the negative impact the proposed development would have in terms of traffic and access.

The site is accessed via Esplanade Road (B3210), part of the Torbay Major Road Network. The applicant indicates that the property benefits from a (shared) right of way with or without vehicles for all purposes from the private road that is accessed from Esplanade Road. Paragraph 105 of the National Planning Policy Framework allows Local Planning Authorities to set local parking standards, based on 5 criteria: accessibility; type, mix and use of development; public transport opportunities; local car ownership levels; and the need to reduce high-emission vehicles.

The proposal includes a parking area at lower ground floor level with 19 car park spaces which is accessed at street level to the rear of the proposed hotel for cars to enter from the private road accessed off Esplanade Road and exit onto Garfield Road. Policy TA3 and Appendix F of the Local Plan would seek the provision of 1 space per bedroom plus appropriate provision for coaches. The Council's Senior Strategy and Project Delivery Officer has stated that the provision of 19 spaces on-site for a 119 bedroom hotel is insufficient. The proposed layout makes provision for setting down picking up guests, alongside the provision of 2 disabled spaces, 2 electrical vehicle charging points and 12 cycle spaces and 5 motorcycles spaces. The proposed plans also include a demarcated pedestrian zone.

Concerns over the level of parking provided have been raised by the Councils Strategic Transport Officer, however this could be overcome through a commitment from the applicant and agreement from the Council (not the Local Planning Authority) that spaces would be able to be secured within the Victoria public car park on Garfield Road. It is noted that there is committed development on the adjacent site (the former Park Hotel) which also has insufficient on-site car parking that will require off street parking facilities. The closest public car park is Victoria, which is likely to form the most convenient facility and should be the focus of serving the new hotel to avoid overspill or indiscriminate parking on street. The Local Highway Authority seeks additional support for the enhancement of Victoria car park, including EVC facilities, lighting, CCTV and décor to provide a safe, attractive environment, the cost of which is detailed in the 'Section 106 Agreements' section of this report, this contribution would mitigate against the insufficient off-street on-site parking provision proposed.

For clarity there are currently 968 parking spaces at Victoria Centre, 441 spaces within the newer of the two car parks (alongside the railway line / behind Lidl) and, in theory, 527 spaces within the older car park, although we are advised that in reality only 183 spaces are available for the majority of the year within the old car park. The old car park is considered to be beyond economic repair and as such is likely to be the subject of redevelopment in the future. Nevertheless, there are also a number of other car parks serving the locality and the application site is reasonably accessible in relation to both the rail and bus stations.

A revised highway scheme for Esplanade Road and Garfield Road that provides a suitable and safe pedestrian and cycle links and provision for deliveries will be required and negotiations are on-going to find a suitable solution. A Section 278 agreement will be required for the necessary works to the highway. A traffic regulation order would also be needed to ensure there is no adverse impact on surrounding roads.

The secure bicycle storage is below the requirements of Appendix F of the Local Plan which states that there should be the bicycle storage provision of 1 per 2 employees, however the Council's Senior Strategic and Project Delivery Officer has verbally confirmed that this shortfall is acceptable subject to the improvements to the Victoria car park through the aforementioned Section 106 agreement. The proposed bicycle storage would serve both guests and staff of the hotel. To ensure travel by accessible modes for both staff and guests a planning condition in relation to the submission and approval of a travel plan prior to the recruitment of staff is recommended. The proposed car parking shows two electric vehicle charging points, the Council's Senior Strategic and Project Delivery Officer has verbally confirmed that this is acceptable, therefore a planning condition is recommended to secure the two electric vehicle charging points.

The Council's Waste Client Manager has been consulted with regards to the proposed refuse storage and raises no objection to the proposal, therefore a planning condition is recommended to secure the proposed refuse storage of the site.

Subject to further negotiations and information to comply with the above requirements it is deemed that a suitable outcome which complies with Policies TA2 and TA3 of the Local Plan and Policies PNP1(e) and PNP1(h) of the Paignton Neighbourhood Plan can be found.

9. Designing out crime

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

10. Sustainability

The hotel building proposes to be a thermally efficient, low carbon development. The proposed development will look to minimise CO2 emissions. The development will be provided with insulation to meet the U-value targets exceeding the requirements of the Building Regulations Part L2A criterion.

The development will be constructed to achieve a low fabric air permeability. The target permeability for the building will be below the requirements of the Building Regulations. The implementation of an energy efficient lighting strategy will reduce overall emissions. We intend to use energy-efficient LED light fittings throughout the development due to their low CO2 impact and reduced operational costs. In addition, the use of lighting controls such as occupancy detection control would be encouraged to further reduce the use of artificial lighting in the circulation areas of the scheme.

The proposal seeks to deliver a high-quality development, with high performing, low carbon intensive building services design. The adoption of best practice building services technology, with high quality materials will yield a long service life, maintainable and sustainable Mechanical, Electrical and Piped (MEP) services design. The energy hierarchy approach to the development of the Hotel will reduce demand for energy consumption in the first instance prior to the consideration of integrating low/zero carbon (LZC) energy sources.

11. Section 106 Agreements

Coastal Defence Scheme

The Council's Drainage Engineer has advised that a contribution towards flood defences on Paignton seafront will be required. The Section 106 contribution to the Paignton and Preston Coastal Defence Scheme is based on the area protected behind the existing sea wall for the 1 in 10 year storm event plus 50 years of climate change. This storm event has been chosen as the design horizon of the scheme is for 50 years of climate change.

The estimated scheme cost for the Paignton and Preston Coastal Defence Scheme is

in the sum of £3,750,000.

Based on the 1 in 10 year storm event plus 50 years of climate change flood maps produced as part of the Torbay Coastal Defences Climate Change Adaptation Report, the overall flooded area behind the existing sea walls is as follows:

Paignton = 165,153m²

Preston = 33,605m²

Total flooded area = 198,758m²

The scheme cost per m² of area protected by the coastal defence scheme is therefore:
 $3,750,000/198,758 = £18.87/m^2$

The overall site area for the proposed development at The Lighthouse in Paignton is 1,630m².

Therefore the Section 106 contribution from the development towards the coastal defence scheme is as follows:

$1,630m^2 \times £18.87 = £30,758.10$

At the time of writing this report confirmation as to the method of how this sum is to be paid is yet to be confirmed.

Security

The Council's Corporate Security and CCTV Manager has advised that a contribution towards the installation of a CCTV camera. The Section 106 contribution is towards siting a CCTV camera at the junction of Garfield Road and Esplanade Road given the anticipated increased footfall of individuals, it will provide further views to monitor Esplanade Road and Garfield Road, along with coverage down towards the entrance of Victoria Car Park. The siting of the CCTV camera will increase pro-active monitoring and provide additional security for individuals using the area and the hotel itself.

The scheme cost is therefore:

£3,980.39 excluding VAT.

The calculation to get to this figure is detailed under the consultation responses section of this report.

Highways

The Council's Senior Strategy and Project Delivery Officer has advised that a contribution towards enhancing the facilities of Victoria car park, which includes electrical vehicle charging points, lighting, CCTV and décor, which would assist in providing a safe and attractive environment. The Torbay Council 'Planning Contributions and Affordable Housing Supplementary Planning Document provides the basis for this calculation. Table 4.3 calculates impact per unit at £171 per trip

(3.432 trips per room x 119 bedrooms x £171), this figure may be mitigated against the demand which could be generated by the extant Lighthouse use (1,561sqm/100 x £1,620), resulting in a planning contribution of £44,549 as a site acceptability matter.

This contribution is sought as a mitigation measure against the insufficient off-street on-site parking provision that is proposed.

12. Community Infrastructure Levy

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

13. 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 improve the core tourism offer would produce a significantly positive impact overall and help with the regeneration of the town. It is acknowledged that there are concerns about the potential impact upon the tourism sector however from the evidence available this does not appear to be significant, and as stated previously business completion in itself is not generally held to be a material planning consideration. Concerns about car on site car parking provision failing to meet the adopted standards are addressed in the body of the report and whilst the need would be accommodated by existing public parking provision and a robust travel plan, it is considered that the balance still remains in favour of approving the proposal.

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.

EIA

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

Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant. The Council works with applicants/agents in a positive and proactive manner by:

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

In this case, concerns raised in relation to the proposal's overall scale, design and parking were addressed through revisions to the scheme, which reduced its overall size, and provides better outlook and daylight, which is complimented by proposed planning conditions and obligations seeking to enhance local access arrangements, encourage the use of sustainable means of transportation, and reduce the chances of overspill parking in the locality.

Conclusions

The proposal would result in the addition of a hotel facility on an underutilised brownfield site within a Core Tourism Investment Area. It is considered that the proposal would deliver visual, economic, and regeneration benefits and none of the harm identified is considered sufficient to outweigh these benefits. The proposal is considered to be acceptable for conditional approval, having regard to the Development Plan, and all other material considerations.

Officer Recommendation

Delegate authority to the Assistant Director of Planning & Transport to grant conditional approval subject to an acceptable resolution of the remaining highway matters, the conditions detailed below and the completion of a legal agreement securing the contributions identified in the body of the report. Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to also be delegated to the Assistant Director of Planning and Transport.

Conditions

1. Flood Management Plan

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

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

2. External Lighting

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

Reason: To ensure that the architectural quality of the building and its setting is highlighted through an appropriate scheme of lighting and to prevent harm to neighbouring occupiers and bats, and to comply with Policies DE1, DE3, and NC1 of the Adopted Torbay Local Plan 2012-2030.

3. Landscaping

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

Reason: In the interests of visual amenity and in accordance with Policy DE1 of the

Adopted Torbay Local Plan 2012-2030.

4. Boundary Treatment

Prior to the first use of the development hereby permitted, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed boundary treatment shall be retained for the life of the development.

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

5. Designing Out Crime

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

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

6. Removal of Vegetation

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

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

7. Refuse Storage

Prior to the first occupation of the development hereby permitted, the refuse and recycling facilities shown on the approved plans (plan reference '4311-KE-ZZ-B1-DR-A-(22)00-25 (Parking & LGF)', received 14th October 2019) shall be provided.

Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

8. Additional Paraphernalia

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

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

9. Bat and Bird Boxes

Prior to the first occupation of the development hereby approved 2 bat tubes (Schwegler type 2F or similar) and 4 bird nest boxes (Schwegler type 1A or similar) shall be installed (in accordance with manufacturer's instructions for correct siting and installation) on the approved development and retained at all times thereafter, in line with the mitigation measures outlined with the Protected Species Assessment Report (ead ecology) dated March 2018 (plan reference '180327-P877-BBAR-TD-MC Final -Protected species', received 30th July 2019).

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

10. Surface Water Drainage

In accordance with the submitted flood risk assessment received 30th July 2019, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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

11. Finished Floor Levels

The finished floor levels of the development shall accord with the levels shown on the approved plans (plan references '4311-KE-ZZ-B1-DR-A-(22)00-25 (Parking & LGF)' and '4311-KE-ZZ-GF-DR-A-(22)01-23 (GF)' received 14th October 2019).

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

12. Section 278 Highways Agreement

The development hereby approved shall not be brought into use until all relevant highways agreements, such as Section 278, have been entered into and associated works on the highway carried out to the satisfaction of the Local Highway Authority.

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

13. Materials

No development above damp proof course level shall take place until details of the proposed cladding materials (walls and roof) and openings have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar. A sample panel shall be constructed on site and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.

Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton Neighbourhood Plan 2012-2030.

14. Ventilation and Extraction

A Risk Assessment as identified in the document "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems" shall be submitted and approved by the local planning authority in writing prior to commencement of use. The applicant shall identify the intended cooking processes and style of cuisine, the location of the nearest sensitive accommodation and the proposed location of the exhaust. Calculations shall be provided that identify that the requisite air flow is achieved for a safe environment in the kitchen area, together with the

required level of treatment specified in the above document taking into account the type of cooking and location of the flue. An assessment of noise generated by all plant and equipment operating on the site and an assessment shall be made of the noise at the nearest sensitive receptor. The system shall be designed so that noise at the nearest receptor does not exceed more than 10dB below background noise levels when measured and rated with BS4142: 2014 Methods for rating and assessing industrial and commercial sound. The approved system shall be installed prior to the premises being opened for customers.

Reason: To ensure the development, hereby permitted, does not adversely impact on the amenity of the area by way of noise and odour and in accordance with the requirements of Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

15. Construction/Demolition Management Plan

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

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.

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

16. Bicycle Storage

Prior to the first occupation of the development hereby permitted, the bicycle storage shown on the approved plans (plan reference '4311-KE-ZZ-B1-DR-A-(22)00-25 (Parking & LGF)', received 14th October 2019) shall be provided. Once provided, the agreed bicycle storage shall be retained for the life of the development.

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

17. Electric Charging Points

Prior to the occupation of the development hereby approved, the electric charging points detailed on the plan reference '4311-KE-ZZ-B1-DR-A-(22)00-25 (Parking & LGF)' received 14th October 2019 have been provided, and thereafter permanently retained for the life of the development. The agreed electrical charging points shall be thereafter maintained.

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

18. Travel Plan and Car Parking Management Strategy

Prior to the occupation of the development hereby approved, a Travel Plan and Car Parking Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out how at least 30% of the potential users can gain access by foot, cycle or public transport, and how this will be implemented and monitored including SMART targets and an annual review. The Travel Plan shall be continually monitored by a Travel Plan Coordinator (TPC) appointed to ensure that it meets its objectives and targets. In the event that the objectives and targets of the Travel Plan are not met, the Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Travel Plan or updated Travel Plan, shall be made available to the Local Planning Authority upon request during normal business hours and the contact details of the TPC shall be provided in all iterations of the Travel Plan. The Car Parking Management Strategy shall include details of car parking allocation including details of staff and visitor parking.

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

19. Parking and Manoeuvring Provision

Prior to the first use of the development hereby approved, the parking facilities and manoeuvring area detailed on the plan reference '4311-KE-ZZ-B1-DR-A-(22)00-25 (Parking & LGF)' received 14th October 2019 have been provided, and thereafter permanently retained for the life of the development.

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

Relevant Policies

Torbay Local Plan

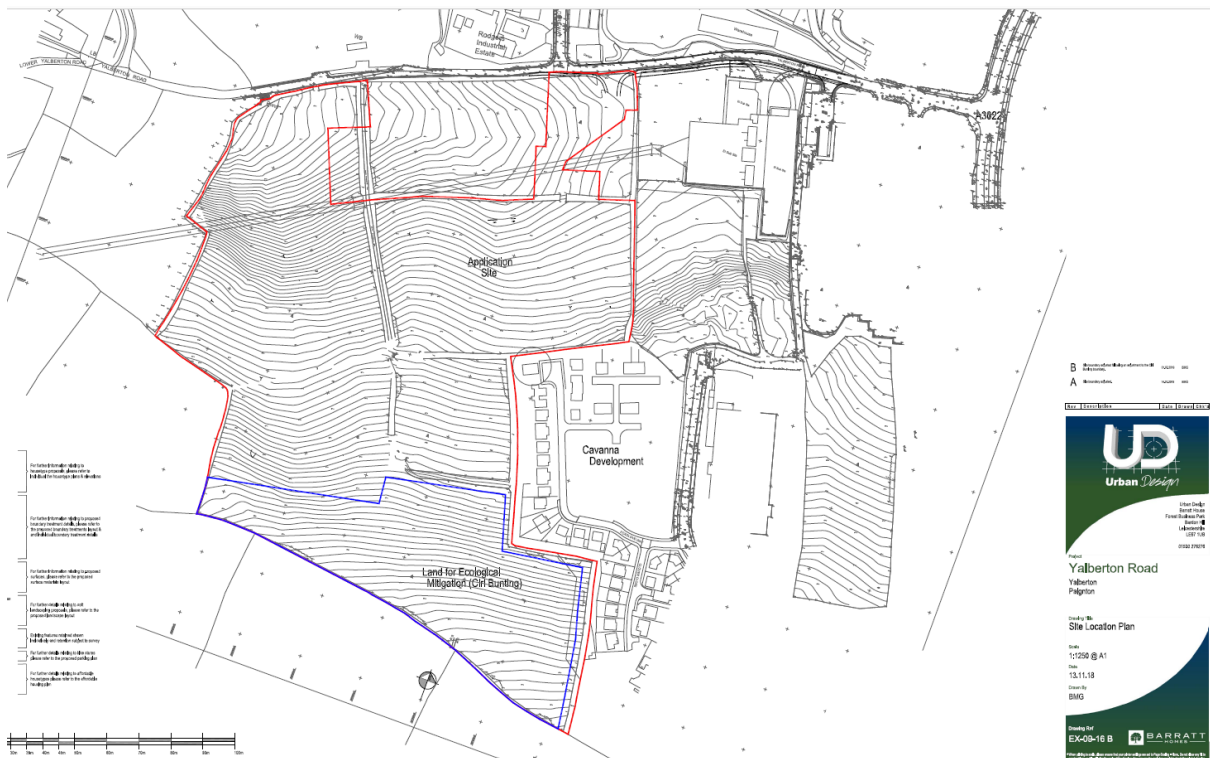
C4 – Trees, Hedgerows And Natural Landscape Features
DE1 – Design
DE3 – Development Amenity
DE4 – Building Heights
ER1 – Flood Risk
ER2 – Water Management
NC1 – Biodiversity And Geodiversity
SDP1 – Paignton
SS1 – Growth Strategy For A Prosperous Torbay
SS4 – The Economy And Employment
SS11 – Sustainable Communities
TA2 – Development Access
TA3 – Parking Requirements
TC5 – Evening And Night Time Economy
TO1 – Tourism, Events And Culture

Paignton Neighbourhood Plan

PNP1 – Area Wide
PNP1(c) – Design Principles
PNP1(e) – Commercial Development
PNP1(h) Sustainable Transport
PNP1(i) – Surface Water
PNP4 – Seafront
PNP14 – Paignton Neighbourhood Plan Core Tourism Investment Area
PNP15 – Flood and Sea Defences



Application Site Address	Land South Of Yalberton Road, (Yannon's Farm), Paignton
Proposal	Reserved matters application pursuant to P/2019/0605, for the construction of 189 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11
Application Number	P/2019/0173
Applicant	Barratt Homes (Exeter) Ltd
Agent	LRM Planning Ltd
Date Application Valid	12.03.2019
Decision Due date	11.06.2019
Extension of Time Date	
Recommendation	Delegate Authority to the Assistant Director of Planning and Transport to grant conditional approval subject to overcoming the issues raised by Natural England, a Habitat Regulation Assessment/Appropriate Assessment which confirms no likely significant effect on the SAC and the conditions outlined at the end of the report, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport



Reason for Referral to Planning Committee	Major Reserved Matters Application
Planning Case Officer	Mr. Alexis Moran

Site Details

The site is located to the west of Brixham Road on the outskirts of Paignton. The site is 8.17ha in area. The majority of the site is located within the Future Growth Area of the Local Plan, except for the part of the site which is set aside for ecological amenity space and the south-western part of the residential proposal.

The land comprises agricultural fields bounded by hedgerows. In addition, overhead power lines cross the northern part of the residential area of the site. The site has a sloping topography with a north facing slope that rises by around 50 metres to a high point near the top of the hill located to the southeast. A field located near to the top of this hill lies outside of the application site but is proposed as a 'high meadow for ecological mitigation and biodiversity' habitat for one pair of Cirl Buntings.

The site is bounded by Yalberton Road to the north; the Western Power electricity station and Yannons Farm development site to the east; agricultural fields to the south (beyond which is South Devon College); and open countryside to the west. To the north of Yalberton Road is Yalberton Tor Quarry, which is allocated as a waste site in the Local Plan, and the Rodgers/Yalberton industrial estates.

The majority of the site is located within the Future Growth Area for housing and related development in the Local Plan. The land to the south and west of the main site is designated as Countryside Zone.

The whole site is located within the greater horseshoe bat sustenance zone associated with the South Hams Special Area of Conservation (SAC) at Berry Head; the northwest corner of the main site is also within a strategic flyway. The whole site is located with the Critical Drainage Area (CDA).

Description of Development

The proposal seeks reserved matters consent pursuant to outline permission P/2014/0983/MOA (amended by P/2019/0605), for the construction of 189 dwellings, public open space, landscape planting, ecological mitigation measures, pedestrian, cycle and vehicular links and associated infrastructure. Including the discharge of conditions 1, 2, 4, 7, 8, 9, 10 and 11. Thus, it is important to note that the principle of residential development on the site already has outline planning permission

The submitted plans show a residential development to the north of the site with a parkland, including a playpark, a community orchard and an area of ecological mitigation for cirl buntings to the south of the site. There is also an area of public amenity space to the north-west of the site.

The proposed dwellings range in height from one storey to three storeys with the prevailing height being two storeys. Three apartment buildings are proposed which are made up of two, two and a half storey buildings and one three storey building, all of which are located to the east of the site.

Pre-Application Enquiry

N/A.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

P/2019/0605 - Variation of Conditions relating to application P/2018/0977. Variations sought: P1 - replace approved plan 3010-005 B with plan EX-09-39, 4 - Rewording of condition, 6 - Remove references to 'buses'. APPROVED 15.10.2019

P/2018/0977 - Variation of condition P1 - amendments to plans & condition 24 - footway and road, to Major Planning Application P/2014/0983 (revised plans received 14.11.2018). APPROVED 07.12.2018.

P/2014/0983 - Outline mixed use proposal for phased residential development (Use Class C3) of up to 192 dwellings and employment development (Use Classes B1 and B8) of between 7,400 sq m and 9,200 sq m floor area, together with the provision of ecological mitigation measures, public open space and other associated infrastructure. (Means of access to be determined only) (Revised Scheme). APPROVED 07.09.2018

Summary of Representations

Twenty objections to the scheme had been received at the time of drafting this report. The concerns raised are summarised as follows.

1. - Highway capacity/traffic.
2. - Flooding and drainage.
- 3.- Impact on infrastructure.
4. - Overdevelopment of the site and wider area.
5. - Ecology/Cirl Bunting compensation.
6. - Impact on privacy.
7. - Failure to discharge conditions (although this is not necessary at the reserved matters stage).

Summary of Consultation Responses

Environment Agency – No objection

Historic England – No comment

Torbay Council Drainage Engineer – covered by a condition on the outline application

Natural England - *The Reserved Matters application is not in accordance with the mitigation requirements identified and agreed at the Outline Application stage. The mitigation measures agreed at Outline underpinned the conclusion of the Habitat Regulations Assessment (10 December 2015), that the proposals would not result in a likely significant effect upon the South Hams SAC. The mitigation measures and approach put forward with the Reserved Matters application is a weakening of the agreed mitigation measures, and do not adequately address the impacts (permanent and irreversible) from the development upon greater horseshoe bat activity.*

Torbay Council Strategic Transport –

Spine Road / Bus Route width

As it was not possible to amend the width, and given that it is possible for buses to use the road at a width of 5.5m, this design is agreed. However, double yellow lines should be provided along the length of the highway from the junction with the employment land to the proposed access link to WPD land as shown on the layout. This can be required as part of the S38 submission.

Forward Visibility on Bends

Some of the bends appear tight with restricted or limited forward visibility. It was previously requested that a drawing be submitted which demonstrated that forward visibility on bends can be achieved in accordance with the design guide. On reviewing the resubmission, I cannot see that such a drawing has been submitted. I would note that it was confirmed verbally that all was fine, but nevertheless it would help to have a drawing to confirm.

Forward Visibility through ‘Pinch Point’ feature

We verbally discussed the ‘Pinch Point’ and it was clarified that it was necessary for breaks in the hedgerow to be kept to a minimum in order to achieve the ecological and

landscape requirements for the scheme. As such a wider opening was not possible to achieve. It was considered that on balance there would be sufficient visibility for this to operate safely and as it will not be a change to an existing layout, rather a clear feature from the beginning, that it can be considered acceptable. Through the S38 application it will be necessary to clearly indicate this space and encourage vehicles to slow, without the need for signage and significant road markings that would clutter the streetscene. It is noted that the space that will need to be kept clear of low vegetation is to be highway. This is not appropriate as it is, I believe, the only greenspace proposed as public highway in the development. It will be costly for the Authority to maintain. This area should be included in the management company land but with conditions that there shall only be low level planting/grass and branches kept above vehicles to ensure clear sight lines.

Similarly on the northern boundary, there is another narrowing through the existing hedgerow that, due to the proximity with the bend could cause visibility issues. It is accepted that there are only 7 dwellings in this area but with emergency access here as well and the need for refuge vehicles to turn prior to and reverse through this section in order to remain on the public highway there is a concern. Signage will be appropriate in this location to mitigate the impact.

Visitor parking in turning heads

This has been addressed and the spaces removed.

Grass Verges

The revised Management Ownership Plan clarifies that the verges will now be under the management company and not proposed to be adopted as public highway. This is acceptable.

However, there is no apparent inclusion of birds mouth style fence erected along the extent of the verge area to protect against verge parking. This was sought previously and is necessary in order to ensure any on street parking.

Parking Spaces

There were a number of matters raised previously in respect of the parking provision. The below addresses/updates on these.

Plot 106 – this has been amended, clarified, and is considered acceptable.

Plot 192 – the difference between the various drawings outside this plot has been corrected and is acceptable.

Plots 1, 2 and 3 – the parking area for these plots has been reconsidered and is acceptable.

Plot 61 – the numbering has been amended and this comment related to what is now numbered 36. The parking area has been widened to allow turning space.

Plots 37, 38, and 39 – this was reconsidered along with Plot 61(now 36). Plots 38 and 39 have a clearly defined secondary parking space but plot 37 has a space which appears restricted but meets the minimum standards. This is acceptable on balance.

The spaces and small turning area for 107 and 108 need not be public highway and it is not desirable for it to be such. This should be amended.

Cycle Storage

This point was discussed and given the extent of design work carried out to date it was not possible for such amendments to be easily incorporated. As such, and on balance, given the immediate policy requirements are met, this is acceptable.

Shared Path

This point, regarding a crossing at the end of the path has been addressed. However, it will still be necessary for the detailed S38 submission to include dropped kerb and appropriate signage provision.

Emergency Access

Although the Council would not seek to adopt this alternative access, it is important that through condition and/or legal agreement, it is maintained in suitable order and that suitable surfacing is provided throughout its length.

Access to 'Cavanna' site

There is an indication of the ramped access to be provided. This is of course necessary to meet the requirements of the other consent but in any case, further details of this will need to be provided. It is equally important that this link is required to be constructed in a timely manner though it is accepted that it does not all fall within this land owners control.

Access to 'WPD' site

The road is shown on the drawings needs to be to be constructed and adopted right to the boundary edge. This should be completed in phase 1 and in any case before occupation of units 16-19 or 20-26 whichever is ready for occupation first.

Materials

I understand that block paving has been removed from the proposal.

S38 drawings

There are no revised S38 drawings submitted to planning. However, for clarity it may still be necessary to state that a S38 application will need to made to the Local Highway Authority and all areas shown purple (with the exception of the 'pinch point' build out and parking area for 107-108) will be adopted.

Bus Stops

It is welcomed that bus stop provision is indicated which could be provided at a later date. It would not be a requirement for this to be implemented until such time as a bus route was or could be provided.

Electric Charging

Provision for EV charging has been shown to an acceptable level (not all dwellings). There should be a condition to ensure these are implemented prior to occupation of the respective units.

ACTIONS

In summary of the above, the following actions need to be taken:

- 1. Double yellow lines to be included within the S38 on both sides of the highway between the employment site access and WPD site. This is to enable clear access into the development and for buses should the future use arise. It is necessary for this to be included prior to occupation of any unit to prevent parking in these areas and the need to break habits later on.*
- 2. Details of forward visibility on bends still need to be clarified. Whilst we have been reassured verbally I can't confirm until the drawing is provided.*
- 3. Amendments need to be made to the management company/public highway plan to confirm that the pinch point landscape area and the parking for 107 and 108 will not be public highway.*
- 4. The pinch point landscape area should only have very low level planting/grass and branches of trees kept above vehicle heights to ensure clear forward visibility. This should be secured by condition.*
- 5. Details will need to be included within the S38 for how the safety of all users will be ensured at the two narrow access points through the existing hedgerow.*
- 6. Details of how verges will be protected from parking should be provided. This can be post decision but should be prior to the occupation of any unit to ensure no habitual parking occurs that later needs to be addressed.*
- 7. The S38 application needs to include details of dropped kerbs and signage for all pedestrian and shared paths throughout the development.*
- 8. The maintenance of the emergency access should be included within the legal agreement or secured by condition.*
- 9. The ramped access to the 'Cavanna' site must be provided and should be secured by condition.*
- 10. The S38 application must include provision for the public highway to extend up to the boundary of the neighbouring 'WPD' site and must be constructed prior to occupation of units 16-26. This is to ensure this provision is made and that there is no prevention of future access into or from the neighbouring site.*
- 11. All areas shown purple on the management plan, excluding those referenced above (Pinch point landscaped area and parking for 107 and 108) shall be constructed to adoptable standard and included within a S38 application*

12. *EV charging provision shall be fitted and available for use prior to occupation of each respective unit.*

South West Water- No objection

Paignton Neighbourhood Plan Forum - *The Forum has considered the above planning application and objects to the proposals because the details submitted do not accord with the outline consent granted for the following reasons:*

1. Surface water disposal

The Reserved matters layout and integral drainage pipe work proposed in the submitted application relies on surface water disposal going to a large open soakaway to the north west of the site. No satisfactory information is provided that demonstrates how the private management arrangement of the system will operate in perpetuity in accordance with the requirement of condition 13 of consent

P/2014/0983. Nor is there provision made in the Section 106 Agreement (29 August 2018) and Supplemental Agreement (5 December 2018) for dealing with the problem that will arise if for any reason the proposed private management arrangement ceases to operate and leads to an increase of present surface water flooding in the locality.

2. Impact on protected species

The Reserved matters layout and landscaping detail fails to accord with the outline consent that requires 'mitigation' proposals for 1 pair of Cirl Buntings on site and 5 pairs off site (in accordance with the Decision by Development Management

Committee on 9 April 2018 at Minute 76 and outline consent condition 25). Instead, the submitted application makes proposals for 1 pair on-site and 'compensation' payment for 5 pairs lost with no proposal included that confirms where or how 5 pairs off-site will be established nor be the subject of aftercare and long term maintenance as required by condition 25. The Reserved matters application indicates at paragraph 4 of the submitted 'Cirl Bunting Mitigation Scheme' (February 2019) that the off-site provision is detailed in the Section 106 Agreement. However, no such detail has been found in the Section 106 Agreement (29 August 2018) nor

Supplemental Agreement (5 December 2018). Without this detail the full provision must be made on-site for 6 pairs to ensure satisfactory 'mitigation' as required.

3. Traffic impact

As implementation of the defined employment and residential parts of the outline consent area are being taken forward separately, it is not clear what provision has been made to require further improvement of the Yalberton Road / Brixham Road junction from the composite development in view of the concerns previously raised in the Forum's letter of 31 December 2014 when the outline application was first considered.

Torbay Council Housing Services - No objection

Police Architectural Liaison Officer - *Following a review of the Presentation Layout, which contains the best level of detail for my purposes and the Secured by Design (SBD) statement, I am pleased to advise that many positive aspects from a designing*

out crime, fear of crime, antisocial behaviour (ASB) and conflict perspective have been factored in to the overall design and layout of the scheme but to assist further please find the following few additional points for consideration:-

1. The back to back gardens are much supported from a security perspective but please ensure that all gates that lead to the rear of dwellings are capable of being locked from both sides, by means of a key for example, as this will enable rear gardens to be secured regardless of access or egress. The proposed latches and bolts for the gates are noted but these are likely to prevent the gate from being fully secured on egress.

2. The shared rear access paths between plots 15 & 16, 35 & 61, 42 & 43, 89 & 90 and 104 & 105 for example should also be gated. Robust, non-climbing, 'see through' iron style gates would work well in improving surveillance over the path and reduce the fear of crime for residents. The gates should be fitted so as to not create a recess and ideally have a coded or key operated lock fitted.

3. With regard to the multi-occupancy buildings please ensure that any shared external amenity space or designated smoking areas are set as far away from the building elevation as possible to prevent potential noise and nuisance issues for other residents.

Please note that the visitor door entry system for the apartments should have a visual monitor as well as an audio facility. Tradesperson buttons are no longer permitted for SBD developments due to an increase in crime and ASB as such consideration must be given to how mail will be delivered and the reading of utility meters. For further details or options please contact me.

From a designing out crime and disorder perspective it is vital that the parking provision for the proposed development is both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and designed so it is convenient and practical to use, e.g. side by side parking as opposite to tandem style parking, as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere' that can introduce a source of conflict and rancor amongst residents, generally due to inconsiderate or obstructive parking and chaotic and vehicle dominated streets. With reference to 'tandem' parking above, there is ever increasing evidence from new development in the county where this design of parking is not being embraced, perhaps due to being inconvenient or just awkward to use, seeing the 2nd (or 3rd) vehicle being parked elsewhere just to make life easier for the occupants. It is appreciated that the tandem parking design is likely to fulfil the number of parking spaces required for new development, but this number is likely to be much reduced if the spaces are not being utilised. In addition to this the problems associated with tandem parking are further exacerbated when designed to the front of a garage or car port.

Torbay Council Senior Environmental Health Officer

Having reviewed the above application and in particular the acoustic consultant's report I am satisfied that any condition's relating to noise can now be discharged.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Residential Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Impact on Residential Amenity.
5. Impact on Highway Safety.
6. Ecology and Biodiversity
7. Drainage and Flood Risk

1. Principle of development

The principle of residential development of this site is already established through the extant outline planning permission for up to 192 dwellings.

The application site is located within a wider Strategic Delivery Area (SDA), as designated in the Torbay Local Plan under Policy SS1, which identifies areas for the delivery of growth and change in Torbay for the period of the Local Plan. In addition to the above the site is also part of a wider Future Growth Area as identified within Policy SS2 of the Torbay Local Plan. The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 840 houses could be provided within the Brixham Road/Yalberton Future Growth Area over the plan period. Concomitantly the Paignton Neighbourhood Plan identifies the site as being a Future Growth Area.

This reserved matters application therefore only seeks consent for the proposal's appearance, landscaping, layout and scale.

2. Impact on Visual Amenity

Achieving good design is a central thread within government guidance and Part 12 of the NPPF "Achieving well-designed places" offers key guidance. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 offers that that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Local Plan Policy SS2 (TLP) states that development delivered within each of the Future Growth Areas must be integrated with existing communities, and reflect the landscape character of the area as informed by Torbay's Landscape Character Assessment (2010). Policy SS8 (TLP) states that development proposals outside of the AONB designation (the site is not within the AONB) will be supported where they conserve or enhance the distinctive character of Torbay, or where the impact is commensurate with the landscape importance. Policy SS11 (TLP) states in part that development should be of an appropriate type, scale, quality, mix and density in relation to its location. In terms of non-strategic policies Policy DE1 (TLP) outlines a number of factors towards securing development that is well-designed and that

respects Torbay's special qualities. Further to these Local Plan policies Policy PNP1 (c) and (d) of the Paignton Neighbourhood Plan.

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938 (as amended by P/2018/0977). This condition states that the submitted reserved matters shall be consistent with the approved drawing referenced 3445/203/M).

The layout submitted is broadly based on this approved plan with the dwellings made up of perimeter blocks with a spine of green infrastructure through the site and areas of amenity space to the south and north-west.

The area designated for employment use to the north of the site does not form part of this application however the access includes a spur road to allow future development of this site.

Condition 10 of the outline permission P/2014/0938 (as amended by P/2018/0977), required the reserve matters application to be accompanied by a Design Code setting out the design parameters for the streets, the setting out of development blocks, green infrastructure, materials and design parameters in the development.

The perimeter block form provides a clear distinction between the public and private realm. All houses will face onto either a highway or a private drive in order to maximise surveillance and overlooking while gardens face inwards.

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

The use of a variety of house types in terms of design provides interest in the street scene and aids in providing identity to the development site.

The facing materials proposed are made up of red brick, light coloured render with concrete roof tiles. The palette of materials is considered to reflect the local vernacular and are considered to be acceptable, the use of a mix of render and brick buildings provides some contrast between properties in order to provide identity between properties.

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

The proposal is for the provision of 189 residential dwellings and the development would achieve an average density of approximately 23 dwellings per hectare over the whole application site. The net developable area, (i.e. the area in which the residential dwellings are to be sited) of the site is 4.39ha, which equates to a housing density of 43 dwellings per hectare.

This relates well to the existing density of development to the south of the site, and also accounts for the topography and retention of significant areas of mitigation and open space.

The proposed development seeks to respect the existing character of the area in terms of design and with regard to the palette of materials proposed.

Safe pedestrian routes will be provided throughout the site, through the use of footpaths, shared surface roads and private drives.

The fifty-seven affordable units would be provided largely to the north, north-west and north-east of the site, and housing services consider that this layout is acceptable.

A public amenity area, playground and community orchard are proposed to the south of the development. There is also an area of amenity land to the north-west of the site.

There is a strong spine of green infrastructure through the middle of the site from north to south which consists of parallel hedgerows either side of a pedestrian lane. The vast majority of the existing field boundary hedges are to be retained and reinforced. New hedges are to be used as boundary treatments to the fronts of properties and new trees are proposed throughout the development including a number of on street trees which aid in breaking up the urban appearance of the houses and driveways.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form appears to respond effectively to the topography of the site and is reasonably consistent with more recent development in the area.

Given its position, landscaping, and design within the topography of the site, it is considered that the scheme would have limited visual effects on the more open rural areas beyond the site to the west.

It is considered that the proposed appearance, landscaping, layout and scale would not result in unacceptable harm to the character of the area. Based on the information provided, the proposed development is, for the reasons above, considered to demonstrate the potential to provide a satisfactory form of development in terms of layout, in accordance with Policies SS2, SS3, SS11, H1 and DE1 of the Torbay Local Plan, Policies PNP1 and PNP21 of the Paignton Neighbourhood Plan and the NPPF.

3. Impact on Heritage Assets

The NPPF states 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 193). 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 194). 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 196).

In terms of the Development Plan it is stated 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.

The site is not within a conservation area and the closest listed building is the Grade II listed *Yalberton Tor Cottage* which is some 260m from the closest residential dwelling proposed. Policy HE1 of the Local Plan advises that development proposals should have special regard to the desirability of preserving any listed building and its setting.

In terms of context around the listed building, the rural character and setting is largely retained. In this instance, given the distance between the Listed Building and the application site, it is not considered that the proposal would affect the setting of the Grade II Listed Building.

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.

4. Impact on Residential Amenity

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers, the closest of which are to the south of the application site. The Paignton Neighbourhood Plan is largely silent on the matter of amenity but expectations aligned with elements of DE3 are stipulated within Policy PNP1.

The construction phase will naturally result in some temporary impacts however the outline permission includes a condition requiring the submission of a Construction Method Statement which includes a restriction on the hours of construction and requires details of delivery and construction movement and parking to be submitted and approved by the Local Planning Authority prior to development.

The submitted phasing plan for the development identifies the site compound and material storage area as being located to south-eastern boundary of the residential aspect of the site, which is adjacent to the rear of properties on Foxglove Way which is well screened by an existing hedgerow. Although this is likely to cause some issues during the construction phase as previously discussed, the hours and days of construction works will be controlled by the requirement to submit and comply with a Construction Method Statement.

The properties to the south-eastern edge of the site (plots 183-192) would back on to the boundary hedge between this development and the rear of the properties of Foxglove Way. The distance between the rears of plots 183-192 and the properties on

Foxglove Way is approximately 30 metres which is considered to be a sufficient separation distance so as to not cause unacceptable levels of overlooking/intervisibility or loss of privacy. The two sites are also separated by an existing mature hedgerow which would aid in limiting any issues of loss of privacy.

The apartment building which makes up plots 31-34 is located on the eastern boundary of the site would share a side-elevation to side-elevation relationship with the northernmost property of the Foxglove Way development to the south of the site. The distance between the two side-elevations is approximately 15 metres, with the application site being some 2 metres lower than the site to the south. Due to the side-to-side relationship, the distance between properties, and the difference in levels, this relationship is considered to be acceptable.

The area to the rear of the apartment building of plots 31-34 is to be used as a parking area with 21 spaces proposed. This has the potential to cause noise and disturbance through vehicle movements and car headlights shining through windows of properties in the development to the south. However, there is a difference of approximately 2 metres between the site to the south and the car parking area proposed by this application as well as a close-boarded fence of 1.8 metres in height on the boundary. Bearing these mitigating points in mind, it is considered that the car parking area would have an acceptable impact on the amenity of occupiers of dwellings to the south.

The vast majority of properties on the site are two storeys in height with two being two-and-a-half storeys and one being three storeys, all three of these are located on the eastern boundary.

In general, the external amenity areas for the properties accord with the requirements of Policy DE3 (TLP) and there are sufficient cycle and bin storage areas. All of the proposed dwellings comply with the internal space standards identified in the Local Plan.

The outline permission includes a noise mitigation condition requiring a scheme of sound attenuation works to be submitted to, and approved in writing by, the local planning authority, to ensure future occupants of the proposed dwellings are suitably protected against noise from the Yalberton Tor Quarry allocated waste site. The applicant has submitted these details as part of this application and the Senior Environmental Health officer has confirmed that these details are acceptable.

The properties to south of the proposed employment site (which forms part of the same outline application site as this application) would be well-screened from the employment land development thanks to the existing mature hedgerow boundary between the two sites. The approved use of the employment land is for B1 (business) and B8 (storage and distribution) which by their nature are unlikely to cause future issues to the amenity of future occupiers of the residential properties.

There would be some shading from existing trees to the rear gardens of some properties to the eastern and western boundaries of the site, however this is not considered to be sufficient enough to result in an unacceptable impact on the amenity of future occupiers. The trees are outside of the residential curtilages which prevents them from being removed by future occupiers. To help mitigate the impact of the

shading, tree T33 and tree groups G35 and G36 are to be crown-lifted to 5m to help increase ambient light levels to nearby gardens.

The proposal provides sufficient parking spaces and garages for all of the non-adaptable living units, the two adaptable living units have one space per dwelling.

In summary the proposal is deemed to provide a satisfactory form of development in terms of protecting the amenities of adjacent and future occupiers, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy PNP1 of the Paignton Neighbourhood Plan.

5. Impact on Highway Safety

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

Policy TA2 of the Torbay Local Plan states that all development should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided.

The Paignton Neighbourhood Plan is largely silent on access and highway matters beyond guiding that appropriate infrastructure should be in place for development, that sustainable modes should be encouraged, and that suitable parking and cycle facilities should be provided within residential development.

The suitability of the access has been the subject of applications, decisions, and agreements. It has been agreed that the highway along Yalberton Road will be widened with shared cycle/footpath provision and a contribution was sought in relation to the Brixham Road junction works which have been significantly completed. The detail for the Yalberton Road works is submitted within this application although it is noted that it has been approved previously.

Highways have made comments on minor alterations to the infrastructure layout within the site which they consider necessary and the applicant has been advised of these. Subject to the submission of suitably revised plans which overcome these concerns raised by highways, the proposal is considered to be acceptable.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the

residual cumulative impacts on the road network would be severe (Para 109), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policy TA2 of the Torbay Local Plan, The Paignton Neighbourhood Plan and the NPPF.

6. Ecology & Biodiversity

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

The habitats within the site boundary comprise poor semi-improved grassland fields bound and divided by species rich and species poor hedgerows. A stone barn is present, supporting barn owl and roosting bats. The site is of value for breeding ciril buntings and is within a sustenance zone for greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC).

Natural England have raised objection to the reserved matters submission stating that the mitigation measures proposed weaken those agreed in the Outline permission and the conclusions of the Habitat Regulation Assessment (10 December 2015).

Subsequently the applicant has corresponded with Natural England in order to overcome the issues raised and the plans have been altered to provide additional ecological buffers to the boundaries of the site and the number of units have been reduced from 191 to 189. At the time of writing this report, revised comments from Natural England are awaited.

The applicant is required by the Section 106 agreement to provide an off-site provision for bats, the location of which is specified in the agreement.

The Section 106 agreement for the outline permission requires a contribution of £437,500 towards alternative habitat for 5 pairs of ciril bunting which the applicant has now paid. This contribution is to be used by the Torbay Coast and Countryside Trust to provide and manage the habitat for the five pairs of ciril bunting.

In accordance with the outline permission and the Section 106 agreement, the proposal includes an area of 2.5ha to the south of the site to provide a habitat for one pair of ciril buntings. The habitat creation and management will take place in line with current guidance (ordinarily at least 2.5ha suitable habitat, made up of: 1.3ha of rough grassland, 0.2ha of hedge/scrub and 1ha of spring barley). The Section 106 agreement agreed to at the outline application stage includes a contribution to monitor the management of this land over a period of twenty-five years.

An informal path is proposed along the eastern boundary of the area, providing a route to the adjacent development, which will consist of a 1m wide mown path at least 2m from the base of the hedgerows. Information boards are to be installed to inform residents of the importance of the mitigation land for protecting ciril buntings.

In accordance with condition 16 of the outline permission a temporary barn owl box is to be located on a mature tree in the south-west corner of the site which is to be positioned at least 3 metres above ground level.

In accordance with condition 7 of the outline permission a permanent bat box is to be provided within the existing barn building to the south of the site.

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

In light of the foregoing and subject to Natural England withdrawing their objection to the scheme, the proposal's ecological impacts are considered acceptable, having regard to Policy C4 and NC1 of the Torbay Local Plan.

In terms of trees, the proposal would result in the loss of eight trees, three of which show signs of dieback, the tree loss has been limited through appropriate design with the loss of the majority of features located towards the centre of the site. There are no tree protection orders (TPO) on the site and the site is not located within a conservation area.

Two mature sycamore and one lime (T42, T43 and T44) of significant size are located to the northwest of the Site. These trees form a prominent feature along Yalberton Road.

A tree planting strategy is to be implemented during the landscape phase of the development which will compensate for any tree loss as well as enhance the arboricultural value of the site.

The proposed buildings are of sufficient distance from the retained trees so as not to impose any potential future pressure. However, future occupants of plots 142-145 and 148-149 may wish to prune or manage tree T33 and tree groups G35 and G36 to reduce their shading impact on the gardens. To mitigate this, the trees have been kept outside of the ownership of the dwellings.

It is considered that the development should be conditioned to be undertaken in accordance with the submitted arboricultural method statement and arboricultural impact assessment which includes details of tree protection measures during the construction phase.

7. Flood Risk and Drainage

Comments in objection and from the Paignton Neighbourhood Forum are noted, however a condition relating to the submission of drainage details prior to the commencement of development was added to the Outline permission P/2014/0938 (as amended by P/2018/0977). As such these details will be provided to the Council as part of a separate assessment exercise. Sewerage details were also detailed as part of the outline permission as follows:

- a) a detailed survey and evaluation of the public foul sewerage network has taken place (at the Owner's expense) to identify improvements necessary to be funded in advance and executed to accommodate the discharge of foul sewage from the development; and
- b) the Owner has submitted an application to the relevant Sewerage Undertaker for a public foul sewer requisition under s98 of the Water Industry Act 1991 (which shall include the provision of public sewerage improvement works identified as necessary).

8. Other Considerations

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The site is identified for housing within the Development Plan and is hence broadly considered a sustainable site for future residential development.

The proposal is supported by a travel plan that seeks to provide the parameters to help the development minimise the use of the private car. This for example includes providing electrical charging points and cycle parking facilities for all dwellings and good-quality pedestrian and cycle networks within the development.

Policies ES1 of the Local Plan and PNP1 of the Paignton Neighbourhood Plan state that all major development proposals should make it clear how low-carbon design has been achieved, and how the sequential energy hierarchy has been applied in doing so. That new development should connect to a district heating network where there are existing proposals or schemes and that site renewable energy generation is required to achieve 20% of the subsequent in-use energy requirements.

The proposal is supported by an energy statement that presents proposed measures by the developer to reduce CO2 emissions, delivered through a combination of passive and active design measures, in the form of demand-reduction measures and energy-efficiency measures, including the use of solar panels.

EIA/HRA

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

HRA: The application site is within a strategic flyway/sustenance zone associated with the South Hams SAC.

A Habitat Regulations Assessment/Appropriate Assessment (AA) based on the revised plans which confirms no significant effect on the South Hams SAC is required prior to the issuing of a decision notice.

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 scale and layout of the development are considered to comfortably sit within the site while providing generous public open space and ecological mitigation land.

The appearance of the dwellings would be in keeping with the character of the area and the palette of materials would match the predominant style of Paignton. The proposal includes the addition of several trees, including a community orchard, and proposes new boundary hedges to the fronts of properties which help to provide a net gain to the existing landscaping. It is acknowledged that there are potential impacts upon greater horseshoe bats but these are not unacceptable, subject to the planning conditions.

This reserved matters application is deemed to comply with the requirements of the outline permission in terms of the residential aspect of the development.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S.106 Agreement

The outline permission secured planning contributions towards education, lifelong learning, greenspace and recreation, sustainable transport, waste management, habitat monitoring and contributions towards improvements to the Brixham Road and Yalberton Road. This also included a payment of £437,500 towards alternative habitat for 5 pairs of curlew which the applicant has now paid.

Affordable Housing

Affordable housing provision for this development has been agreed in accordance with Policy H2 of the Torbay Local Plan, which states that for development of greenfield sites for schemes of 30+ dwellings that 30% should be affordable housing.

At 30% the scheme is expected to secure 57 affordable units. In terms of the affordable

housing tenure, the s.106 agreement signed as part of the outline permission requires 33% of the affordable housing units to be social rent (19 dwellings), 33% to be affordable rent (19 dwellings) and the remainder to be equity share dwellings (19 dwellings). Three dwellings (5% of the affordable housing provision) have been designed to adaptable housing standards. As a result of comments from Housing Services the type and tenure of the units has been amended during the application stage.

The location of the affordable units has been carefully considered to ensure that, in line with the Planning Contributions and Affordable Housing SPD (February 2017), there isn't an unacceptable clustering (i.e. a cluster of more than 24 dwellings).

The applicant will build and transfer the affordable housing elements of the proposed development to a Registered Provider in line with the terms outlined within the Section 106 agreement.

Conclusions and Reasons for Decision

The site already has outline planning permission and is identified for housing within the Development Plan and the proposal is consistent with the approved outline application for the site.

Key public concerns regarding Cirl Buntings are resolved through mitigation within the development and conditions. Revised plans have been submitted which seek to mitigate the impact upon the Greater Horseshoe Bats and concerns raised by Natural England. A further consultation response from Natural England is awaited. The proposal includes improved green infrastructure and additional tree planting. Issues with regards to drainage and sewerage were addressed by conditions as part of the outline permission.

Notwithstanding the receipt of a further consultation response from Natural England and the completion of a Habitat Regulation Assessment/Appropriate Assessment, which confirms no likely significant effect on the South Hams Special Area of Conservation, the proposals are considered to be in accordance with the provisions of the Development Plan.

The Officer recommendation is one of approval subject to resolving the issues raised by Natural England. The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Delegate authority to the Assistant Director of Planning & Transport to grant approval subject to satisfactorily overcoming the issues raised by Natural England, an Habitat Regulation Assessment/Appropriate Assessment which confirms no likely significant effect on the South Hams Special Area of Conservation and the conditions outlined at the end of the report. Also the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport, including the addition of any necessary further planning conditions or obligations and the final drafting of conditions delegated to the Assistant Director of Planning and Transport.

Conditions

1. In accordance with LEMP

The development shall be carried out in strict accordance with the approved Landscape and Ecology Management Plan (Reference: 0733-LEMP-FM, Received: 30th August 2019).

Reason: To ensure that the development duly considers protected species and important habitats, in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

2. Long term maintenance of LEMP

Prior to occupation of the first dwelling of the development hereby approved, a long term Landscape and Ecology Management Plan shall be submitted to and approved in writing by the Local Planning Authority, which will describe how the site will be managed in perpetuity. This information shall include:

- a) Details of long term Landscape and Ecology Management
- b) Details of the body or organisation responsible for implementation of the plan.
- c) On-going monitoring and remedial measures for biodiversity features included in the LEMP.
- d) Details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

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

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

3. In accordance with CEMP

The development shall not be carried out otherwise than in strict accordance with the Construction Environmental Management Plan (Reference: P2019-0173-1, Received 08th February 2019 unless otherwise agreed in writing).

Reason: To ensure that the development duly considers protected species and important habitats, in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

4. In accordance with Greater Horseshoe Bat Monitoring Strategy

The approved Greater Horseshoe Bat Monitoring Strategy shall be adhered to. A report describing the results of the monitoring shall be submitted to the local planning authority at intervals as identified in the Strategy. The report shall also set out where the results from monitoring show that site conditions are changing and consequently how contingencies and/or remedial action will be identified, agreed with the local

planning authority, and then implemented so that the development still delivers the fully functioning bat commuting routes associated with the originally approved scheme.

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

5. In accordance with Lighting Impact Assessment

The development shall accord with the approved Lighting Impact Assessment (reference: 4094 Rev 1 (Update), received 30.08.2019) for the life of the development. Should any of the external lighting become damaged and need replacement, it shall be replaced with external lighting of the same type and specification. No other external lighting shall be provided, including outdoor security lighting.

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

6. Onsite Cirl Bunting Mitigation and Management

The development shall be undertaken in strict accordance with the approved Cirl Bunting Mitigation and Management Scheme (reference 0733-CLB-MW, received 30.08.2019).

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

7. Tree Protection Measures

The development shall be undertaken in strict accordance with the measures in the approved arboricultural impact assessment and arboricultural method statement which includes the implementation of tree and hedgerow protection measures throughout the construction phase of the development.

Reason: To ensure trees are protected in the interests of biodiversity and visual amenity in accordance with policies NC1 and C4 of the Torbay Local Plan 2012-2030 and are required to be in place prior to commencement to duly protect the identified trees.

8. Parking Implementation

Prior to the occupation of the dwellings hereby approved, their associated car parking spaces, as shown on the approved layout plan, shall be provided and thereafter made permanently available for the use of the associated properties.

Reason: to ensure all properties have dedicated parking facilities and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

9. Soft Landscaping Implementation

All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding season following the completion of the dwellings hereby approved, 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 available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of the amenities of the area and in accordance with Policies SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

10. Hard Landscaping Implementation

Prior to the first occupation of the development hereby permitted, the scheme of hard landscaping treatment shall be fully installed in accordance with the approved plans. Once provided, the agreed hard landscaping treatment shall be retained for the life of the development.

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

11. Materials

The development hereby approved shall be constructed in full accordance with the materials specified on the approved plans unless otherwise agreed in writing.

Once constructed no further changes to the masonry finish including colour shall be permitted without the prior consent of the Local Planning Authority.

Reason: To ensure a satisfactory form of development and in accordance with the requirements of policy DE1 of the Torbay Local Plan 2012-2030.

12. Implementation of refuse facilities

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

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

13. Implementation of bicycle storage

Prior to the first use of the development hereby approved, bicycle storage facilities shown on the approved plans shall be provided. Once provided, storage arrangements shall be retained for the life of the development.

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

14. Construction Method Statement

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

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

15. Removal of PD for gates, walls, or other means of enclosure

Notwithstanding the provisions of Schedule 2, Part 2 of the Town and Country Planning (General Permitted Development) Order 2015 2015 (or any order revoking or re-enacting that order with or without modification), the erection, construction, or alteration of a gate, fence, wall or other means of enclosure shall not take place within the application site unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual amenity and in order to protect proposed boundary hedges in the interests of protected species in accordance with Policies DE1, DE3 & NC1 of the Torbay Local Plan 2012-2030.

16. Permanent Barn Owl Box

In accordance with the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEclA-FM revision 1, received 30.08.2019) provision of a permanent barn owl box, in the location specified in the aforementioned document, shall be made prior to the first occupation of any of the dwellings hereby approved. The permanent barn owl box shall be retained in the approved location at all times thereafter.

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

17. Temporary Barn Owl Box

In accordance with the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEclA-FM revision 1, received 30.08.2019) provision of a temporary barn owl box, in the location specified in the aforementioned document, shall be made prior to next bird breeding season following the granting of this permission.

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

18. Boundary Treatment

Prior to the first occupation of the development hereby permitted, the boundary treatments shall be fully installed in accordance with the approved plans and shall be retained for the life of the development.

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

19. Bird Boxes

Notwithstanding the Update Ecological Impact Assessment and Mitigation Strategy (reference 0733-UEclA-FM revision 1, received 30.08.2019) the residential development hereby approved shall make provision to an overall ratio of one integral nestbox per dwelling.

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

20. Play Area Provision

No more than 150 dwellings shall be occupied on the site until the play area has been completed in accordance with the approved plans and made available for use by the general public.

Reason: To ensure that the development provides a range of physical, social and green infrastructure, including local play spaces, in accordance with Policies SS7, SS9, SS11 and SC5 of the Torbay Local Plan 2012-2030 and LDD 8 Greenspace Strategy.

21. Biodiversity info pack

Biodiversity information packs shall be provided to all new occupiers of the dwellings hereby approved, with the packs at least including clear and precise information on the importance of maintaining the dark areas and corridors where no additional external lighting and no removal of boundary hedges will be allowed.

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

22. Details of connection of access to site to the south

Prior to the first occupation of any of the units, full details of the ramped access to the southern boundary of the site to link up with the site to the south shall be submitted to the Local Planning Authority for approval. The approved scheme shall be completed prior to any works being undertaken in phase 2 of the development as indicated in the approved phasing plan (referenced EX-09-36 version F, received 30.08.2019).

Reason: In interests of the amenity of future occupiers and in accordance with Policy DE1, and SS7 of the Torbay Local Plan 2012-2030.

Relevant Policies

SS2 - Future Growth Areas

SS3 - Presumption in favour of sustainable development

SS4 - The economy and employment

SS5 - Employment space

SS6 - Strategic transport improvements
SS7 - Infrastructure, phasing and delivery of employment
SS9 - Green Infrastructure
SS10 - Conservation and Historic Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low Carbon Development and Adaptation to Climate Change
W2 - Waste audit for major and significant waste generating developments
W3 - Existing waste management facilities in Torbay
SDP1 - Paignton
SDP3 - Paignton North and Western area
TA1 - Transport and accessibility
TA2 - Development access
DE3 - Development Amenity
ES1 - Energy
M3 - Preserving and safeguarding of limestone resources and key local building stone
C1 - Countryside and the rural economy
C4 - Trees, hedgerows and natural landscape features
NC1 - Biodiversity and Geodiversity
H1 - Applications for new homes
H2 - Affordable Housing
DE3 - Development Amenity
SC1 - Healthy Bay
SC2 - Sport, leisure and recreation
SC3 - Education, skills and local labour
HE1 – Listed Buildings



Application Site Address	The Old Toll House Abbey Crescent Torquay TQ2 5TS
Proposal	Demolition of part of existing building, extension, and change of use to cafe/bar (revised plans received 23/09/2019)
Application Number	P/2019/0316/PA
Applicant	The Venus Company
Agent	Mr Samuel Brackley – Absolute
Date Application Valid	10.06.2019
Decision Due date	05.08.2019
Extension of Time Date	29.11.2019
Recommendation	That Planning Permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the proposed development is on land that is registered as a Torbay Council asset and an objection has been received, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Ross Wise



Site Details

The application site is The Old Toll House Abbey Crescent, Torbay Road, Torquay.

The Toll House is a Grade II Listed Building located at the junction of Abbey Crescent with Rock Walk Gardens, a Grade II entry of the Register of Historic Parks and Gardens. The freehold of the site is Torbay Council-owned. It was formerly used as a toll house, gardener's cottage, beach manager's office and public toilets. It is in a poor state of repair. A mature and attractive Copper Beech is located immediately adjacent to the building within Rock Walk Gardens.

The site is also located within the:

- Belgravia Conservation Area (BCA).
- Torquay Town Centre Community Investment Area
- Harbourside, Waterfront And Belgrave Road Core Tourism Investment Area
- Princess and Royal Terrace Gardens Historic Park and Gardens
- Flood Zone 2/3

Description of Development

The proposal seeks to demolish the more recent unattractive extensions to the Toll House and their replacement with more contemporary extensions to provide a 'café bar' use. The extensions are to be largely glazed, with white render and aluminium detailing. A very modern style was thought to be appropriate in order to create a clear contrast with the character of the Toll House. In order to be successful, it was considered vital that the size and form of the extension has to be subservient to, and not overwhelm, the Toll House.

Pre-Application Enquiry

N/A

Relevant Planning Policy Context

Development Plan

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

Material Considerations

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

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which

it possesses. With regard to Conservation areas the Act requires that in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area

Relevant Planning History

P/2004/1906/PA. Extension to form new bars; Change of use to Cafe Bar. Refused 06.01.2005

P/2004/1907/LB. Extension to form new bars; Change of use to Cafe bar. Refused 06.01.2005

P/2005/1368/PA. Demolition of part of existing building; Extension and change of use to Cafe Bar (Revised Scheme) (as revised by plans received 19 September 2005) Approved 26.09.2019

P/2005/1369/LB. Demolition of part of existing building; Extension and change of use to Cafe Bar (Revised Scheme) (as revised by plans received 19 September 2005) Approved 26.09.2019

P/2008/0980/PA. Formation of roof terrace; modifications to lift. Approved 29.07.2008.

P/2008/0981/LB. Formation of roof terrace; modifications to lift. Approved 29.07.2008.

P/2011/0799/PA. Extend time limit P/2008/0980- Formation of roof terrace, modifications to lift -. Appeal Allowed.

P/2011/0802/LB. Extend time limit (P/2008/0981) - Formation of roof terrace, modifications to lift - Appeal Allowed.

Summary of Representations

16 objections have been received (of the 16 objections 13 were received from a single party). The main concerns are summaries as follows:-

- Impact on the listed building and its setting.
- Scale of development
- Impact on beech tree.
- Not in-keeping with local area
- Impact on the adjacent tree.

Summary of Consultation Responses

Historic England: *Historic England commented on this proposal in June at which time we expressed concerns about the scale and massing of the proposed extension to this modest former toll house. We felt that the proposed new café building would entirely dominate this historic structure and we suggested that a more sensitive architectural solution was required in order to preserve the quality and special interest of this listed building and the character of the Conservation Area in which it sits. We also expressed regret that the building would be relegated to becoming a WC block.*

We are pleased to see that the revised scheme has reduced the height of the part of the new building which sits directly behind the historic building. The chimneys will now

project above the level of the new building to the rear. However, it should be noted that in views along the seafront from the south east, the historic building will be more obscured, as the section of the new building to the south east is now entirely two storeys where the previous scheme was partially single storey with a roof terrace, thereby allowing at least the chimneys to project above the building line.

We note that historic images illustrate that at least one of the stone chimneys would have been of a tall, rather elegant design and suggest that any reinstatement should be carefully researched and designed so as not to diminish the quality of the remaining architecture. We concur with the Victorian Society's comments that a scholarly restoration rather than either a conjectural addition or notional reference to the original would be appropriate.

As stated previously, the NPPF advises in paragraphs 193-4 that any harm or loss to a designated asset should require a clear and convincing justification - unjustified harm is never acceptable, regardless of the public benefit it brings, if alternative and less harmful options exist. Before weighing up the harm against any public benefit associated with a proposal, it needs to be demonstrated that that harm cannot be avoided or reduced through amendments to the scheme, or offset by mitigation of the harm or enhancement of the asset. Historic England's Good Practice Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment, sets out a clear process for making that assessment in paragraphs 6 and 25-26. It is for your Authority to be satisfied that that process has been rigorously applied and the tests of the NPPF have been met by the application.

The Victoria Society: *The current proposal is an improvement on the previous with extensions being set back on the right-hand side, and significantly reduced to the rear. As stated in our previous letter (dated 1st July 2019) however, scale is a key element in the legibility of a toll house and extending it in any form will still lead to a degree of harm. If the application is to be acceptable the harm caused by the extension should be mitigated as far as possible by an exemplary, scholarly restoration of the building which will contribute towards its continued legibility as a toll house. Gabled porches for example were key elements of these buildings, and the illustration attached below shows that this toll house was no exception. Although demolished, this was clearly a characterful and prominent feature of the building which should be reinstated as part of the plans. This illustration moreover depicts tall stone chimneys which have now been truncated, and we would moreover consider the reinstatement of these features to be an important step towards mitigating the harm of the proposed development. Finally, the list description notes that the current windows are modern replacements, yet it is unlikely that historically they would have consisted of a single pane of glass and we would therefore suggest that further research is carried out to uncover the original design of the windows and this design reintroduced as well.*

If the council feels that the scale of the extension is acceptable, we would urge them to enforce the conditions mentioned above as a way of mitigating the harm to this listed building.

County Archaeologist:

I defer to the advice of your specialist consultees (e.g. the Victorian Society and the TCCT) regarding the proposal's impacts on the built and natural environmental.

My advice remains the same, that if your authority is minded to grant consent for the development then there should be a programme of historic building recording.

Torbay Council Local Highways Authority: *If the development is granted Permission the Applicant would need to Apply for a Pavement Café Licence and abide to the requirements within the Guidance of the Licence.*

Highways do not want the extension of the footway, bollards, or the drop kerbs as it may encourage people to cross the road at this point rather than the signalised Crossing.

The location of the proposed Wheelchair access with dropped kerbs would be better behind the disabled bay next to the Double Yellow Lines, a vehicle Crossing licence would be required for these works.

The Traffic Regulation order will not be required to be altered and the restricted Zone still covers this area.

The Fire Exit Gate is not considered a Highway issue.

Torbay Council Strategic Appraisal Officer:
Construction phase

Appropriate pollution control measures (for both water and air) should be applied in accordance with Defra guidelines (<https://www.gov.uk/guidance/pollution-prevention-for-businesses>) throughout the construction phase and where appropriate, method statements should be followed for high-risk activities, such as refuelling and use of concrete. With these measures in place, there would be no likely adverse effects on the SAC as a result of the potential spread of dust, sediments or other water or air borne pollutants.

Operation phase

The proposed surface water drainage system shows the rate of discharge will be limited close to greenfield rates up to a maximum of the 1 in 10-year event. This is compliant with the Local Plan Policy ER2 which states the following:

All development should seek to minimise the generation of increased run-off, having regard to the drainage hierarchy, whereby surface water will discharge to one of the following, listed in order of priority:

- i) An adequate infiltration system... ..or where this is not practicable;*
- ii) A main river or water course, or where this is not practicable;*
- iii) A surface water sewer or highway drain, or in the last resort where none of the above are reasonably practicable;*
- iv) To a combined (foul and surface water) sewer, where the discharge is controlled to be at greenfield discharge rates.*

No significant changes to the water quality of the surface water runoff are anticipated post construction, and therefore no likely significant effects on the Lyme Bay and Torbay SAC are predicted as a result of the construction or operation of the development.

Torbay Council Drainage Engineer:

- *The development lies within Flood Zone 3. All developments located within Flood Zone 3 must be accompanied with a site specific flood risk assessment.*

- *The developer has submitted a site specific flood risk assessment in support of the planning application which includes the proposed surface water drainage design and drawings.*

Providing the surface water drainage is constructed in accordance with the hydraulic design and drawings contained within the site specific flood risk assessment, I have no objections on drainage grounds to planning permission being granted for this development.

Torbay Council Tree and Landscape Officer: *The update revision was based on the additional information gleaned as a result of carrying out a resistograph. The conclusion drawn from the detailed investigation was that the tree is in such a condition that it can be retained as part of the proposal, provided the works as described, are carried out to facilitate construction.*

Recommendation - The development is sustainable from an arboricultural perspective.

Torbay Council Environmental Health: *I write in reference to the above planning application. Although I do not have any objections to the above Planning Application, I have the following comments to make:-*

1. *You must have suitable refuse areas inside and outside the premises. Refuse must be deposited in closable containers which can be kept clean and disinfected. Refuse areas must be kept clean. Any other types of containers or system must be agreed by the Authority. This is a compact commercial area with limited areas for storage of waste with ongoing issues with adjoining neighbouring businesses and their commercial waste.*

2. *You must have a commercial waste contract for collection of your trade refuse. If bins are to put out on the Highway for collection, they must be put into storage as soon as collection is completed and, must not be stored on the Highway. See attached information sheet.*

Environment Agency: *It is apparent that the applicant has considered the risk of flooding at the site and has taken the necessary precautions to address this. As a result we are able to remove our objections to the proposal from a development and flood risk perspective.*

Devon Gardens Trust: *We have viewed the application documents on your web site and the Historic England Register map and entry. We have visited the site previously. On the basis of the information on your website, we do not wish to comment. We would emphasise that this does not in any way signify either our approval or disapproval of the proposals.*

South West Water: *No comment.*

Natural England: *No comments to make on this application.*

Key Issues/Material Considerations

1. Principle of development.
2. Impact on visual amenity.
3. Impact on heritage assets.
4. Impact on residential amenity.
5. Impact on highways.
6. Trees and ecology.
7. Flooding and drainage.

Planning Officer Assessment

1. Principle of development.

The proposal is for the demolition of part of existing building, extension, and change of use to cafe/bar.

The site is located within the Harbourside, Waterfront and Belgrave Road Core Tourism Investment Area (CTIA) as defined by Policy TO1 of the Local Plan. Policy TO1 states that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. It is also stated that the Council wishes to see a wider range of new and refurbished facilities and services, with investment being focussed in CTIAs. Policy TS4 of the TNP supports brownfield development providing there are no significant adverse impacts. Policy TT2 of the TNP states that Within designated Conservation Areas or where Listed Buildings are involved, whether inside or outside of a CTIA, change of use from tourist accommodation and other development proposals requiring consent will be supported in principle (subject to other policies in the TNP) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

The proposed development seeks to demolish the unsympathetic extensions and construct new extensions to the existing building to create a two-storey café/restaurant. It is considered that the proposal would improve the appearance and condition of the existing, listed building (as discussed in detail in the accompanying officer report concerning the associated listed building consent application) and produce a high quality tourist facility that would assist in continuing the regeneration of the area. As such, the proposal complies with Policy TO1 of the Local Plan and Policy TS4 of the TNP.

As discussed, the proposal would retain and help to sustain a listed building; it would provide an enhanced restaurant use with benefits for the local economy, the Conservation Area and the CTIA.

The proposal is considered acceptable in principle, having regard to Policy TO1 of the Local Plan and Policies TS4 and TT2 of the TNP.

Policy SS4 of the Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, including tourism, hotel and catering.

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

Policy TC5 of the Local Plan states that the Council supports, in principle, development that helps create a vibrant, diverse evening and night-time economy within the town centres, seafront and harbour areas of the Bay.

The proposal is considered to be consistent with the objectives of these policies.

2. Impact on Visual Amenity

The National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. In addition, it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 Design of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character and reflect the identity of its surroundings.

The proposed demolition of the previous unsympathetic extensions of the Toll House is considered to result in an improvement in the character and appearance of the site and the wider area.

The revised design of the extension to the Old Toll House presents a contemporary approach that would contrast with the form and materials of the existing historic toll house structure. The proposed materials relate to the surrounding context, visually tying the proposal to others on Abbey Crescent. The amendment to the original design of the proposal has now reduced its visual appearance in relation to its scale and massing. The proposed extension would now introduce a two storey element beside the historic element of the Toll house but slightly set back from the public highway. To the rear of the site, between the Toll house and the rock face, is now proposed a first floor terrace area in the place of the previous enclosed extension. The proposed terrace area has removed the visible built form from behind the toll house allowing it to be legible as the principle structure. In addition, the reinstatement of the historic chimneys in line with the comments from the Victorian Society will further help to establish the toll house as the principle structure and restore much of its former appearance.

Details of the windows and doors have not been included within the submitted information. A planning condition will be employed to secure details of the proposed windows and door details prior to their installation to ensure that the materials enhance and conserve the Listed Building and the Belgravia Conservation Area and to ensure that the proposal complies with the requirements of the Planning (Listed Building & Conservation Area) Act 1990.

Subject to the conditions being met, the proposal is considered to be acceptable with regard to Policy DE1 of the Local Plan and TH8 of the Torquay Neighbourhood Plan.

3. Impact on Heritage Assets

Policy SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses. Policy TH10 of the Torquay Neighbourhood Plan support alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

The application site envelops the Grade II Listed Toll House and its various extensions and sits at the edge of the Princess and Royal Terrace Historic Park and Gardens.

The Old Toll house is mentioned within the Belgravia Conservation Area Appraisal (BCAA) and describes its history of uses. The building has had various uses since it was built in 1841 at the same time as New/Torbay Road. Collecting tolls discontinued in 1848 and since then it has been used as the town gardeners' cottage (formerly known as Dyer's cottage), a beach manager's office and public conveniences.

The Old Toll House is described as being one of a limited number of buildings within the BCA being constructed of exposed stone. Predominantly the building material is white/colour-washed stucco or render.

The Old Toll House's overall significance is derived in the most part from its historic and architectural values. The building is tied directly to its location in local history, providing historical links to the creation of the New/Torbay Road and the toll required to utilise it. Its architectural value could be considered to result from its detailing and use of exposed local limestone. In terms of its evidential value, there is likely to be little due to the previous changes in its use. It is also noted that there are limited remaining examples of pre 1850s toll houses and that Historic England identifies them as serious candidates for listing.

The property has been vacant for some time and is becoming vulnerable to deteriorating beyond its current level. The proposal would restore much of the heritage asset and bring it into commercial use to be enjoyed by the public.

The application proposes both internal and external alterations to the building with the creation of a café/restaurant with seating spread across two floors. Internally, the proposal would involve the fairly limited interventions into the historic structure. A section of wall would be removed to provide access into the internal space within toll house where toilets would be located.

The external alterations would be the most evident, as the proposal would demolish the non-original extensions of the historic structure and replace them with a contemporary extension that would wrap around the Old Toll House, sitting between the rock face and the existing Birch tree.

It should be noted that during the course of the application the proposal has been modified to respond to the initial consultation responses. The proposal originally sought to construct a much larger extension of the Old Toll house that presented a two storey structure along the length of the site to the rear, with a single storey element sitting beside the Old Toll House on its Abbey Crescent elevation.

After negotiations, the plans have now been amended to omit the two storey element from behind the Toll House structure. The main massing of the proposal has been shifted South-Eastwards and presents a design that sits the main elements side-by-side. An outdoor terrace area would now be located to the North-West at first floor level in the place of the former enclosed first floor seating area.

The proposed revised design of the extension to the Old Toll House to provide a café/restaurant use would introduce a contrast to the existing structure that would emphasize the external materials and architectural style of the Old Toll House by presenting a contemporary design with a restricted palette of materials.

The Victorian Society and Historic England have commented that if a scholarly restoration of the Old Toll House is completed then the proposal could be considered

acceptable and could offset the implications of the scale and massing of the proposed extension. The suggested restorative works proposed by the Victorian Society will be implemented through planning conditions to ensure the proposal enhances the historic qualities of the building.

However, in particular, the reinstatement of the gabled porch to the south-West elevation is not considered to be appropriate by officers as the inclusion of this particular element could not be undertaken accurately, as gradually over time, the level of the surface in the area outside The Old Toll House has been raised. This is evident when viewing the South-West elevation and observing how the current paved surface intersects the courses of exterior limestone masonry. In this case, if the porch were to be re-instated it is unlikely to have its original intended appearance and it is therefore considered to be inappropriate.

The Devon County Archaeologist has advised that a Written Scheme of Investigation (WSI) should be submitted prior to development to which this permission relates to set out a programme of historic building recording work to be undertaken in mitigation for the impact upon the historic fabric and appearance of the proposal. This, like the aforementioned suggestions from the Victorian Society, will be sought through condition.

Where the proposal seeks to remove elements of the existing extensions to the Toll House building that are physically attached to it, all works should be undertaken sensitively to minimise any potential harm leading from their removal. A condition will be used to ensure the appropriate materials are used where any repairs are required.

To ensure the restoration works are completed in a timely manner, a condition will be used to ensure the restorative works are completed before the building's first use as a café/restaurant.

At the time drafting this report a further set of drawings are awaited that respond to the most recent comments from Historic England and the Victorian Society. An update of the information received will be presented to the Planning Committee.

Subject to acceptable further plans being received and the imposition of conditions, the proposal is considered to have an acceptable impact on the heritage assets as the proposal would restore and bring the building back into use, remove unsightly additions and use of high quality materials. As such the proposal is considered to be acceptable with regard to Policies SS10 and HE1 of the Local Plan and Policy TH10 of the Torquay Neighbourhood Plan.

4. Impact on Highways.

Policies TA2 and TA3 of the Local Plan establish criteria for the assessment of development proposals in relation to access arrangements and vehicle parking. (Policy TH9 of the Torquay Neighbourhood Plan states that all new housing development must meet the guideline parking requirements contained within the Local Plan unless it can be shown that there is not likely to be an increase in on-street

parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future). Policy THW5 of the Torquay Neighbourhood Plan supports new development proposals where they are located on or near to public transport routes wherever possible and appropriate. In this case the site is considered to be in a commercial area which is already well served by public car parks and therefore would not create significant additional demand. Furthermore the constraints of the site and listed building status means that it would be unsuitable to accommodate off street car parking.

The Local Highways Authority have advised that the applicant would need to apply for a pavement licence for the seating on the highway. They are also concerned with the extension of the footway, bollards and the dropped kerb as these may have highway safety implications.

As these seem to be minor technical issues, it is considered that they are resolvable through the receipt of revised plans and/or by a planning condition. An update of the information received will be presented to the Planning Committee.

Furthermore, a planning condition will also be used to secure details of the provision of cycle storage in accordance with Policy DE3 of the Local Plan and policy THW5 of the TNP.

Subject to the conditions being met, the proposal is considered to be acceptable with regard to Policies DE3, TA2 and TA3 of the Local Plan and Policy TH9 THW5 of the TNP

5. Trees and Ecology.

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy C4 of the Local Plan does not permit development when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value.

A mature and attractive Copper Beech tree is located immediately adjacent to the building within Rock Walk Gardens. During the course of the assessment of the application, additional information was submitted upon the request of the Council's Senior Tree and Landscape Officer to provide detail of the health of the tree and the proposal's impact upon it.

The Council's Senior Tree and Landscape Officer is satisfied that the proposed development is acceptable in terms of its impact upon the Birch tree adjacent to the site. It is noted that a further comment regarding the revised proposal has not yet been received.

An ecology report has not yet been received at the time of writing this report. However, it is understood that it will be submitted before the date of the Planning Committee and will be included within the update given to members of the Planning Committee before the application is presented. It is therefore suggested that conditions relating to the recommendations from the report could therefore be delegated to the Assistant Director of Planning and Transport.

As the site is close to the Marine Conservation Zone (MCZ), a planning condition will be required, requiring that prior to commencement a Construction Environmental Management Plan (CEMP) is submitted to the local planning authority ensure that biodiversity is not harmed by building operations or vegetation removal.

The Local Planning Authority has undertaken a screening of the proposal in accordance with the Habitats Regulations, which has concluded that the integrity of the Lyme Bay and Torbay Marine Special Area of Conservation would not be affected by the proposal.

Natural England has raised no objections to the proposal.

Subject to the proposed planning condition, the proposed development is considered acceptable with regard to Policies NC1 and C4 of the Local Plan and Policy TE5 and of the TNP.

6. Flood Risk and Drainage.

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

As the site is located within Flood Zone 3, the application is required to be accompanied by a site specific flood risk assessment.

The Drainage Engineer has no objections providing the development is carried out in accordance with the details of the submitted site specific flood risk assessment. A planning condition will be employed to secure this.

Subject to the conditions being met, the proposal is considered to be acceptable with regards to Policies ER1 and ER2 of the Local Plan.

7. Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. Policy TS1 of the TNP provides a framework which contributes to the achievement of sustainable development in Torquay. Development proposals should accord with the policies contained in the Torquay Neighbourhood Plan, where relevant, unless material planning considerations indicate otherwise.

The proposal is considered to make sustainable use of land by re-using an existing structure. This reduces the pressure to develop greenfield sites, and promotes urban regeneration. The site's central town centre location in itself promotes sustainable forms of transport as locally available services are within easy walking distance, removing the need for additional car journeys.

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: 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

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.

Planning Balance

The proposal is considered to represent an appropriate and beneficial use which will give both the listed building a sustainable future and therefore enhance the Conservation Area. The alterations in terms of design and heritage impact are considered to be acceptable. Whilst concern has been raised in respect of heritage

issues, these issues are addressed in the main body of the report and are not considered to be so significant as to warrant a refusal of planning permission.

Conclusions and Reasons for Decision

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

Officer Recommendation

Delegate authority to the Assistant Director of Planning & Transport to grant Planning Permission on receipt of satisfactory revised plans, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Conditions

Construction and Environmental Management Plan (CEMP)

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

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of “biodiversity protection zones”.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) Details of pollution control measures which should accord with the standard DEFRA guidelines (<https://www.gov.uk/guidance/pollution-prevention-for-businesses>) to prevent harmful substances entering the air, ground or water.
- f) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- g) Responsible persons and lines of communication.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason:

This information is required prior to commencement to safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030

Materials

Prior to the use of any building materials that would be used for the repair of the historic fabric or within the external appearance of the building, including cladding, stonework and mortar, the proposed materials (including samples where appropriate) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Scholarly Restoration.

Prior to development, details of the restorative works suggested by the Victorian Society, besides the re-instatement of the porch, to the original Toll House structure shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Restorative Works.

Prior to the first use of the development hereby approved restorative works to the historic Toll House shall be completed in accordance with the details hereby approved and/or approved as details pursuant to conditions attached to this permission.

Reason: To secure improvements to the Toll House and an acceptable form of development within the Belgravia Conservation Area, in accordance with Policies SS10, and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Travel Plan

Prior to the first occupation of the development hereby approved a simple and proportionate Travel Plan shall have been submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall outline measures to encourage non-car, sustainable forms of transportation, including a scheme of implementation. The approved measures shall be undertaken in accordance with the approved scheme of implementation.

Reason:

In the interests of sustainable development and in accordance with the guidance contained in the National Planning Policy Framework.

Bicycle storage

Prior to the first occupation of the development hereby approved a details of the provision for the storage of bicycles shall be made according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the

life of the development.

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

Written Scheme of Investigation.

No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted and approved in writing by the Local planning Authority.

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of the historic building fabric that may be affected by the development.

Windows/Doors

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

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

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

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Informatives

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. 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.

03. 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.

04. Community Infrastructure Levy (CIL)

This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough.

CIL next steps required under the CIL Regulations 2010 (as amended):

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development.

The relevant liable person(s) must then submit a notice to the Council setting

out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice.

The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure.

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

Relevant Policies

TO1 – Tourism, Events and Culture.
SS4 – The Economy and Employment.
SS11 – Sustainable Communities.
TC5 – Evening and Night time Economy.
DE1 – Design.
DE3 – Development Amenity.
TA2 – Development Access.
TA3 – Parking Requirements.
ER1 – Flood Risk.
ER2 – Water Management.
NC1 – Biodiversity and Geodiversity.
HE1 – Listed Buildings
SS10 – Conservation and the Historic Environment.
SS3 – Presumption in favour of Sustainable Development.
C4 – Trees, hedgerows and natural landscape features.

TH8 – Established Architecture.

TH9 – Parking Facilities.

THW5 – Access to sustainable Transport.

TE5 – Protected species habitats and biodiversity.

TH10 – Protection of the Historic Built Environment.

TS1 – Sustainable Development.

TS4 – Support for Brownfield and Greenfield development.

TT2 – Change of use in Conservation Areas and Listed Buildings.



Application Site Address	The Old Toll House Abbey Crescent Torquay TQ2 5TS
Proposal	Demolition of part of existing building, extension, and change of use to cafe/bar (revised plans received 23/09/2019)
Application Number	P/2019/0317/LB
Applicant	The Venus Company
Agent	Mr Samuel Brackley – Absolute
Date Application Valid	10.06.2019
Decision Due date	05.08.2019
Extension of Time Date	29.11.2019
Recommendation	That conditional Listed Building Consent is granted. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the proposed development is on land that is registered as a Torbay Council asset and an objection has been received, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Ross Wise



Site Details

The application site is The Old Toll House Abbey Crescent, Torbay Road, Torquay.

The Toll House is a Grade II Listed Building located at the junction of Abbey Crescent with Rock Walk Gardens, a Grade II entry of the Register of Historic Parks and Gardens. The freehold of the site is Torbay Council-owned. It was formerly used as a toll house, gardener's cottage, beach manager's office and public toilets. It is in a relatively poor condition. A mature and attractive Copper Beech is located immediately adjacent to the building within Rock Walk Gardens.

The site is also located within the:

- Belgravia Conservation Area (BCA).
- Torquay Town Centre Community Investment Area
- Harbourside, Waterfront And Belgrave Road Core Tourism Investment Area
- Princess and Royal Terrace Gardens Historic Park and Gardens
- Flood Zone 2

Description of Development

The proposal seeks listed building consent to demolish the more recent unattractive extensions to the Toll House and their replacement with more contemporary extensions to provide a 'café bar' use. The extensions are of a modern style which creates a clear contrast to the old building. The extension will be largely glazed, with white render and aluminium detailing.

Pre-Application Enquiry

N/A

Relevant Planning Policy Context

Development Plan

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

Material Considerations

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

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent for any works the local planning authority or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Relevant Planning History

P/2004/1906/PA. Extension to Form New Bars; Change of Use to Cafe Bar. Refused 06.01.2005

P/2004/1907/LB. Extension to Form New Bars; Change of Use to Cafe Bar. Refused 06.01.2005

P/2005/1368/PA. Demolition of part of existing building; Extension and change of use to Cafe Bar (Revised Scheme) (as revised by plans received 19 September 2005) Approved 26.09.2019

P/2005/1369/LB. Demolition of part of existing building; Extension and change of Use to Cafe Bar (Revised Scheme) (as revised by plans received 19 September 2005) Approved 26.09.2019

P/2008/0980/PA. Formation of roof terrace; modifications to lift. Approved 29.07.2008.

P/2008/0981/LB. Formation of roof terrace; modifications to lift. Approved 29.07.2008.

P/2011/0799/PA. Extend time limit - Formation of roof terrace, modifications to lift -

P/2008/0980. Appeal Allowed.

P/2011/0802/LB. Extend time limit - Formation of roof terrace, modifications to lift -

P/2008/0981. Appeal Allowed.

Summary of Representations

4 objections were received the main concerns of which are summaries as follows:-

- Impact on the listed building and its setting.
- Scale of development
- Impact on the adjacent tree. (*Planning Officer comment:- as the proposal is for Listed Building Consent the potential impact on the tree does not form part of this assessment*).

Summary of Consultation Responses

Historic England: *Historic England commented on this proposal in June at which time we expressed concerns about the scale and massing of the proposed extension to this modest former toll house. We felt that the proposed new café building would entirely dominate this historic structure and we suggested that a more sensitive architectural solution was required in order to preserve the quality and special interest of this listed building and the character of the Conservation Area in which it sits. We also expressed regret that the building would be relegated to becoming a WC block.*

We are pleased to see that the revised scheme has reduced the height of the part of the new building which sits directly behind the historic building. The chimneys will now project above the level of the new building to the rear. However, it should be noted that in views along the seafront from the south east, the historic building will be more obscured, as the section of the new building to the south east is now entirely two storeys where the previous scheme was partially single storey with a roof terrace, thereby allowing at least the chimneys to project above the building line.

We note that historic images illustrate that at least one of the stone chimneys would have been of a tall, rather elegant design and suggest that any reinstatement should be carefully researched and designed so as not to diminish the quality of the remaining architecture. We concur with the Victorian Society's comments that a scholarly

restoration rather than either a conjectural addition or notional reference to the original would be appropriate.

As stated previously, the NPPF advises in paragraphs 193-4 that any harm or loss to a designated asset should require a clear and convincing justification - unjustified harm is never acceptable, regardless of the public benefit it brings, if alternative and less harmful options exist. Before weighing up the harm against any public benefit associated with a proposal, it needs to be demonstrated that that harm cannot be avoided or reduced through amendments to the scheme, or offset by mitigation of the harm or enhancement of the asset. Historic England's Good Practice Advice Note 2: Managing Significance in Decision-Taking in the Historic Environment, sets out a clear process for making that assessment in paragraphs 6 and 25-26. It is for your Authority to be satisfied that that process has been rigorously applied and the tests of the NPPF have been met by the application.

The Victoria Society: *The current proposal is an improvement on the previous with extensions being set back on the right-hand side, and significantly reduced to the rear. As stated in our previous letter (dated 1st July 2019) however, scale is a key element in the legibility of a toll house and extending it in any form will still lead to a degree of harm. If the application is to be acceptable the harm caused by the extension should be mitigated as far as possible by an exemplary, scholarly restoration of the building which will contribute towards its continued legibility as a toll house. Gabled porches for example were key elements of these buildings, and the illustration attached below shows that this toll house was no exception. Although demolished, this was clearly a characterful and prominent feature of the building which should be reinstated as part of the plans. This illustration moreover depicts tall stone chimneys which have now been truncated, and we would moreover consider the reinstatement of these features to be an important step towards mitigating the harm of the proposed development. Finally, the list description notes that the current windows are modern replacements, yet it is unlikely that historically they would have consisted of a single pane of glass and we would therefore suggest that further research is carried out to uncover the original design of the windows and this design reintroduced as well.*

If the council feels that the scale of the extension is acceptable, we would urge them to enforce the conditions mentioned above as a way of mitigating the harm to this listed building.

County Archaeologist:

I defer to the advice of your specialist consultees (e.g. the Victorian Society and the TCCT) regarding the proposal's impacts on the built and natural environmental.

My advice remains the same, that if your authority is minded to grant consent for the development then there should be a programme of historic building recording.

Key Issues/Material Considerations

1. Impact on Heritage Assets.

Planning Officer Assessment

1. Impact on the Designated Heritage Asset

Policy SS10 states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas. Policy HE1 states that development proposals should have special regard to the desirability of preserving any listed building and its setting, or any features of special architectural or historic interest which it possesses. Policy TH10 of the Torquay Neighbourhood Plan support alterations to listed buildings where they safeguard and enhance their historic qualities and elements according to their significance.

The application site envelops the Grade II Listed Toll House and its various extensions and sits at the edge of the Princess and Royal Terrace Historic Park and Gardens.

The Old Toll house is mentioned within the Belgravia Conservation Area Appraisal (BCAA) and describes its history of uses. The building has had various uses since it was built in 1841 at the same time as New/Torbay Road. Collecting tolls discontinued in 1848 and since then it has been used as the town gardeners' cottage (formerly known as Dyer's cottage), a beach manager's office and public conveniences.

The Old Toll House is described as being one of a limited number of buildings within the BCA being constructed of exposed stone. Predominantly the building material is white/colour-washed stucco or render.

The Old Toll House's overall significance is derived in the most part from its historic and architectural values. The building is tied directly to its location in local history, providing historical links to the creation of the New/Torbay Road and the toll required to utilise it. Its architectural value could be considered to result from its detailing and use of exposed local limestone. In terms of its **evidential** value, there is likely to be little due to the previous changes in its use. It is also noted that there are limited remaining examples of pre 1850s toll houses and that Historic England identifies them as serious candidates for listing.

The property has been vacant for some time and is becoming vulnerable to deteriorating beyond its current level. The proposal would restore much of the heritage asset and bring it into commercial use to be enjoyed by the public.

The application proposes both internal and external alterations to the building with the creation of a café/restaurant with seating spread across two floors. Internally, the proposal would involve the fairly limited interventions into the historic structure. A section of wall would be removed to provide access into the internal space within toll house where toilets would be located.

The external alterations would be the most evident, as the proposal would demolish the non-original extensions of the historic structure and replace them with a contemporary extension that would wrap around the Old Toll House, sitting between the rock face and the existing Beach tree.

It should be noted that during the course of the application the proposal has been modified to respond to the initial consultation responses. The proposal originally sought to construct a much larger extension of the Toll house that presented a two storey structure along the length of the site to the rear, with a single storey element sitting beside the Old Toll House on its Abbey Crescent elevation.

After negotiations, the plans have now been amended to omit the two storey element from behind the Toll House structure. The main massing of the proposal has been shifted South-Eastwards and presents a design that sits the main elements side-by-side. An outdoor terrace area would now be located to the North-West at first floor level in the place of the former enclosed first floor seating area.

The proposed revised design of the extension to provide a café/restaurant use would introduce a contrast to the existing structure that would emphasize the external materials and architectural style of the Old Toll House by presenting a contemporary design with a restricted palette of materials.

The Victorian Society and Historic England have commented that if a scholarly restoration of the Old Toll House is completed then the proposal could be considered acceptable and could offset the implications of the scale and massing of the proposed extension. The suggested restorative works proposed by the Victorian Society will be implemented through planning conditions to ensure the proposal enhances the historic qualities of the Old Toll House.

However, in particular, the reinstatement of the gabled porch to the south-West elevation is not considered to be appropriate as the inclusion of this particular element would not be possible, if it was to be undertaken accurately, as gradually over time, the level of the surface in the area outside the Old Toll House has been raised. This is evident when viewing the South-West elevation and observing how the current paved surface intersects the courses of exterior limestone masonry. In this case, if the porch were to be re-instated it is unlikely to have its original intended appearance and it is therefore considered to be inappropriate.

The Devon County Archaeologist has advised that a Written Scheme of Investigation (WSI) should be submitted prior to development to which this permission relates to set out a programme of historic building recording work to be undertaken in mitigation for the impact upon the historic fabric and appearance of the proposal. This, like the aforementioned suggestions from the Victorian Society, will be sought through condition.

Where the proposal seeks to remove elements of the existing extensions to the toll house building that are physically attached to it, all works should be undertaken sensitively to minimise any potential harm leading from their removal. A condition will be used to ensure the appropriate materials are used where any repairs are required.

To ensure the restoration works are completed in a timely manner, a condition will be used to ensure the restorative works are completed before the building's first use as a café/restaurant.

At the time of drafting this report a set of drawings that respond to the most recent comments from Historic England and the Victorian Society, are awaited.

Subject to the receipt of acceptable further drawings and the imposition of conditions, the proposal is considered to have an acceptable impact on the heritage assets as the proposal would restore and bring the building back into use, remove unsightly additions and use of high quality materials. As such the proposal is considered to be acceptable with regard to Policies SS10 and HE1 of the Local Plan and Policy TH10 of the Torquay Neighbourhood Plan.

Statement on Human Rights and Equalities Issues

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

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

Conclusions and Reasons for Decision

The proposal is considered acceptable, having regard to the requirements of the Planning (Listed Building & Conservation Areas) Act, relevant Development Plan policies, and all other material considerations.

Officer Recommendation

That delegated authority is given to the, to grant listed building consent, subject to the receipt of acceptable revised plans being received that address the most recent comments from Historic England and the Victorian Society, and the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning and Transport.

Conditions

Materials

Prior to the use of any building materials that would be used for the repair of the historic fabric or within the external appearance of the building, including cladding, stonework and mortar, the proposed materials (including samples where appropriate) shall be

submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Scholarly Restoration

Prior to development, details of the restorative works suggested by the Victorian Society, besides the re-instatement of the porch, to the original Toll House structure shall be submitted and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in strict accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the heritage asset and the Belgravia Conservation Area in accordance with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Restorative Works

Prior to the first use of the development hereby approved restorative works to the historic Toll House shall be completed in accordance with the details hereby approved and/or approved as details pursuant to conditions attached to this permission.

Reason: To secure improvements to the Toll House and an acceptable form of development within the Belgravia Conservation Area, in accordance with Policies SS10, and DE1 of the Torbay Local Plan 2012-2030, Policy TH10 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Written Scheme of Investigation

No development to which this permission relates shall commence until an appropriate programme of historic building recording and analysis has been secured and implemented in accordance with a written scheme of investigation which has been submitted and approved in writing by the Local planning Authority.

The development shall be carried out at all times in strict accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan and paragraph 199 of the National Planning Policy Framework (2018), that an appropriate record is made of the historic building fabric that may be affected by the development.

Windows/Doors

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

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

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

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the designated heritage asset with Policies DE1, HE1 and SS10 of the Adopted Torbay Local Plan 2012-2030.

Relevant Policies

HE1 – Listed Buildings

SS10 – Conservation and the historic environment

TH10 – Protection of the historic built environment.