

Friday, 14 July 2023

## **PLANNING COMMITTEE**

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

**Monday, 24 July 2023**

commencing at **2.00 pm**

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

### **Members of the Committee**

Councillor Jacqueline Thomas (Chairwoman)

Councillor Billings (Vice-Chair)

Councillor Joyce

Councillor Cowell

Councillor Maddison

Councillor Mandy Darling

Councillor Pentney

Councillor Fox

Councillor Tolchard

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

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

# PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 26 June 2023.

(Pages 4 - 7)

3. **Disclosure of Interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda.

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent Items**

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

5. **Former Torbay Holiday Motel, Totnes Road, Paignton (P/2022/0771)**

(Pages 8 - 52)

Outline Application: Demolition and redevelopment up to 30 dwellings with detailed Access (matters of Appearance, Landscaping, Layout and Scale reserved) (as revised by plans received 28.04.2023).

6. **3 Keysfield Road, Roundham, Paignton (P/2023/0446)**

(Pages 53 - 59)

Reserved Matters to application P/2021/0808 (Demolition and formation of 14 apartments).

Reserved Matters to be discharged: landscaping (to include

biodiversity enhancement measures).

**7. 43 Thatcher Avenue, Torquay (P/2023/0390)**

(Pages 60 - 69)

Roof alterations from hipped to flat roof, to create first floor extension with first floor balcony to the front, replacement balustrade to the existing terrace and changes to fenestration.

**Public Speaking**

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

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

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

**Site Visits**

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 19 July 2023. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

**Meeting Attendance**

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

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

**Live Streaming**

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

## **Minutes of the Planning Committee**

**26 June 2023**

**:- Present :-**

Councillor Jacqueline Thomas (Chairwoman)

Councillors Billings (Vice-Chair), Cowell, Fox, Joyce, Maddison, Tolchard and Virdee

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### **7. Apologies for absence**

An apology for absence was received from Councillor Pentney.

### **8. Minutes**

The minutes of the meeting of the Committee held on 30 May 2023 were confirmed as a correct record and signed by the Chairwoman.

### **9. 48 - 50 The Terrace, Torquay (P/2022/0895/MPA)**

The Committee considered an application for change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extensions, including conversion of 5 Montpellier Road with car parking to rear to create a total of 12 apartments (see accompanying application P/2022/0896).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Dr Rodney Horder addressed the Committee on behalf of the Torquay Neighbourhood Plan Forum in support of the application and Ms Nichola Burley addressed the Committee on behalf of Heritage Vision in support of the application.

At the meeting the Planning Officer provided an update on the background to the application and that application P/2022/0896 for listed building consent for change of use from office to residential was also before the Committee at this meeting. The Planning Officer also advised, that since the report had been published there had been an update from the Highways Authority:

- confirming that the swept path analysis was acceptable;
- a traffic speed survey at the site access was required to inform the potential need for visibility splays;
- suggesting amendment of the site layout plan to illustrate the provision of 12 car parking spaces (of which 20% should provide electric vehicle charging

points) or to demonstrate that the proposed development can operate safely and effectively with reduced car parking. This was addressed within the Planning Officer's report which set out the site constraints, impact on heritage significance and sustainable location.

Resolved (unanimously):

Approved subject to:

1. the conditions as outlined in the submitted report and final consultation response from the Highway Authority confirming no objections, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

**10. 48-50 The Terrace, Torquay (P/2022/0896/LB)**

The Committee considered an application for listed building consent for the change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extensions, including conversion of 5 Montpellier Road with car parking to rear to create a total of 12 apartments (see accompanying application P/2022/0895).

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Dr Rodney Horder addressed the Committee on behalf of the Torquay Neighbourhood Plan Forum in support of the application and Ms Nichola Burley addressed the Committee on behalf of Heritage Vision in support of the application.

At the meeting the Planning Officer provided an update on the background to the application and that application P/2022/0895 for change of use from office to residential was also before the Committee at this meeting.

Resolved (unanimously):

Approved subject to:

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

**11. 21 Sands Road, Paignton (P/2023/0318)**

The Committee considered an application for the conversion of a hotel to 10 x 1 bedroom supported flats (C2 use), shared facilities and office spaces.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mr Adam Stewart addressed the Committee against the application. Ms Di Stirling-Chow and Ms Rosie Dinnan both of Westward Housing addressed the Committee in support of the application.

Resolved:

That the application be refused for the following reasons:

1. The proposed development results in the loss of a tourism facility which will have a detrimental impact on the setting of the tourism area and it has not been demonstrated that it is not viable to continue in tourism and where the loss of tourism facilities can have an adverse impact on the viability of this tourism area. As such it is contrary to Policy TO2 of the Torbay Local Plan 2015-2030.
2. The proposed development results in the loss of a tourism facility on a site where it has not been demonstrated that it is not viable to continue in tourism and where the loss of tourism facilities will have an adverse impact on rather than support the viability and function of this tourism area. As such it is contrary to Policy PNP 14 of the Paignton Neighbourhood Plan.
3. The site is in an area defined as within the deprived for overall deprivation and acutely deprived for living environment. The proposed use would result in the loss of an existing hotel and change to a building containing 10 self contained units for assisted living some of which would be below the space standards set out in Policy DE3 of the Local Plan. As a result, it would not contribute to improving the sustainability of existing and new communities within Torbay or contribute to closing the gap between the most and least disadvantaged neighbourhoods. The proposed would add to the concentration of living environment deprivation in the area. The proposal would fail to create cohesive communities within a high quality built and natural environment. As such, it is contrary to Policy SS11 of the Torbay Local Plan 2012-2030; and
4. The applicant has rejected the proposed condition in relation to personal use and no proposed legal agreement is in place as to how the premises would be managed in the absence of a personal use condition.

**12. Lincombe Keep, Lincombe Drive, Torquay (P/2023/0081)**

The Committee considered an application for formation of an additional storey with external terrace and alterations.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's website. At the meeting Mr Iain Collinson addressed the Committee against the application and Dr Rodney Horder addressed the Committee on behalf of the Torquay Neighbourhood Plan Forum against the application. Mr Keegan Ferreday of Baseplanning addressed the Committee in support of the application.

At the meeting, the Planning Officer advised that since the report had been published two additional objections had been received. In the course of reviewing these Officers had noticed that the Officer Report incorrectly said that the site was not in an Urban Landscape Protection Area (ULPA). The site was in the Ilsham Valley/Lincombe Slopes ULPA. However, this did not change the Officer recommendation for approval.

The Planning Officer explained that the Planning Inspector's decision to uphold the appeal for previous application P/2023/0403 meant that the applicant already had planning permission to build the additional storey without any further involvement with the Local Planning Authority. This decision could not be changed regardless of how the current application (P/2023/0081) was determined.

During a short adjournment, the Planning Officer obtained clarification from the applicant as to how the internal floor to ceiling height of the additional storey as proposed would be increased from 2.145m (as specified in previously approved application P/2022/0403) to 2.4m without raising the external dimensions of the roof as approved under P/2022/0403 in order to assist the Planning Committee in their deliberations.

Resolved:

Approved subject to:

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

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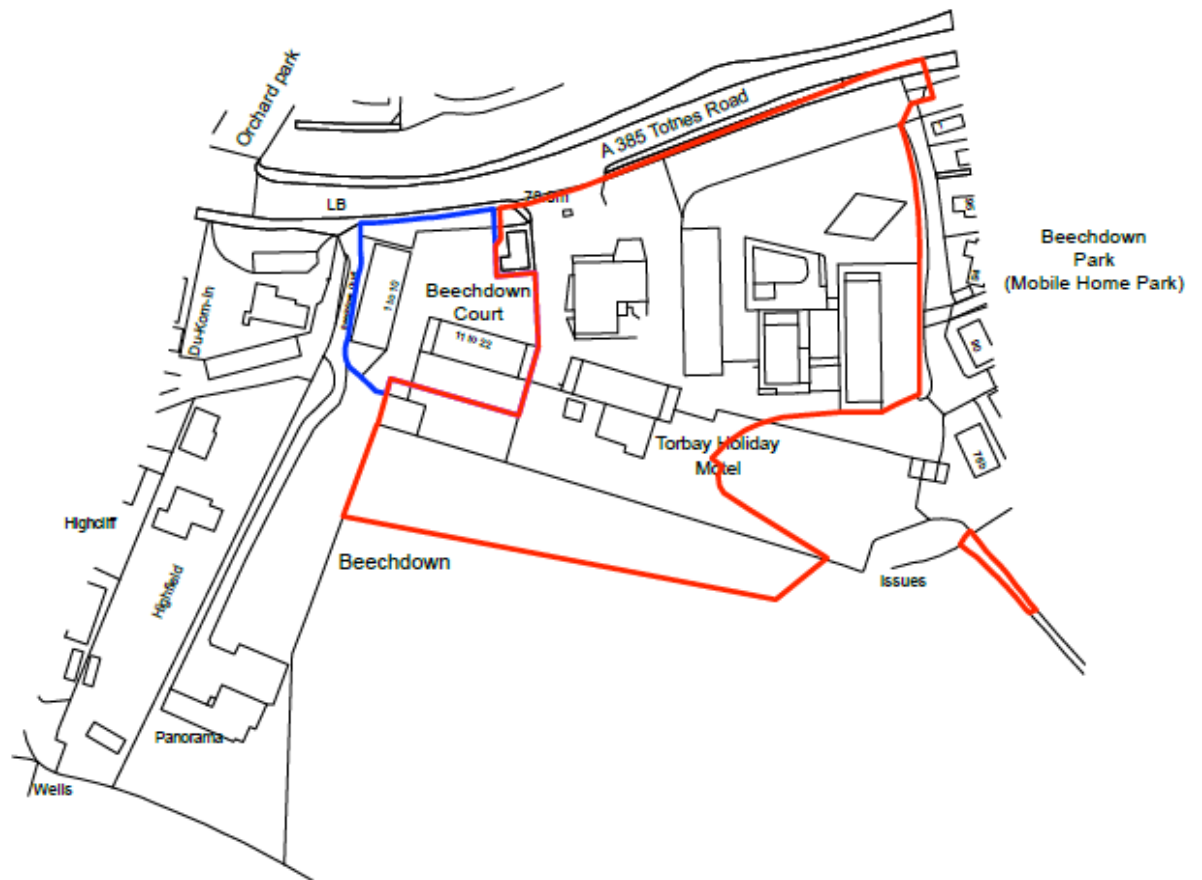
Chairwoman

## TORBAY COUNCIL

Application Site Address	Former Torbay Holiday Motel, Totnes Road, Paignton. TQ4 7PP
Proposal	Outline Application: Demolition and redevelopment up to 30 dwellings with detailed Access (matters of Appearance, Landscaping, Layout and Scale reserved)(as revised by plans received 28.04.2023).
Application Number	P/2022/0771
Applicant	Torbay Eden Ltd
Agent	N/A
Date Application Valid	17.10.2022
Decision Due date	16.01.2023
Extension of Time Date	31.07.2023
Recommendation	<p>Approval: Subject to;</p> <p>The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director - Planning, Housing &amp; Climate Emergency.</p> <p>The completion of a S106 Legal Agreement to secure heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director - Planning, Housing &amp; Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones



## Location Plan



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## Site Details

The application site is the former Torbay Holiday Motel, which is set on the south side of the Totnes Road (A385) on the outskirts of Collaton St Mary, Paignton.

The Motel consists of a small grouping of two-storey buildings that date from the mid-20<sup>th</sup> Century. The Motel has been closed for a number of years and the buildings display a neglected appearance. The land around the buildings is largely laid to hardstand but where it is not there is unmanaged scrub growth.

To the front of the site, to the east of the existing entrance, there is a linear strip of hardstand that runs parallel to the low boundary walls that abuts the pavement. This hardstand is in use as an access route for the adjacent 'park home' site that sits to the east, Beechdown Park. The application site also includes the lower section of the adjacent field to the south of the site, and a separate section of land ownership to the southeast, which is a small strip of land. To the west of the site there are two residential blocks (Beechdown Court) that remain in use, which provide 22 small apartments. These blocks are arranged in an L shape with the associated parking area clearly delineated from that of the wider site by a wall and the previous reception building for the Motel. They sit outside the application site but are identified as being within the

applicant's ownership.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016).

### **Description of Development**

The application seeks outline planning permission for up to 30 dwellings with all matters reserved except for Access. Matters of Layout, Scale, Appearance and Landscaping are therefore reserved for future consideration with indicative detail on these matters submitted as part of the current outline application.

The proposal includes a revised access that sits east of the existing access point off the Totnes Road (A385). The centre point of the proposed junction being approximately 17m east of the centre point of the much wider existing access. In regard to design detail the access proposes a 6m wide carriageway into the site with a 2.5m wide footpath on the western side and a 3m wide foot/cycle path on the eastern side. The access proposal includes highway works to widen and re-align the A385 to provide a designated right hand turn lane into the site.

Beyond the access detail the information submitted is indicative as all other matters are reserved for future consideration. The additional information submitted is principally seeking to demonstrate that the level of development proposed could be achieved on the site. This detail includes an indicative masterplan layout that presents a potential residential layout aligned around a sweeping central road to the south-eastern corner of the site. This road is shown to extend to the edge of the application site. This is made in reference to the aspirations of the adopted masterplan for the area, which depicts the motel site as a 'gateway' site that will provide access to 'Phase 3' to the southeast.

In addition to the central spine road the indicative layout presents a spur road to the east that connects and provides access to the adjacent Beechdown Park to the east and a spur road to the west to serve dwellings along the southern border, together with a retained access to Beechdown Court apartments to the west.

The indicative masterplan shows a mix of detached, semi-detached and short terraced properties, which appear to be provided with a mix of off-road and courtyard parking facilities. Garden divisions that provide private space for all dwellings is also shown (excluding a coach-house). The principles of the layout show development that fronts the A385, which is expected to be set behind some form of landscaping, indicated as possibly taking the form of a Devon hedge bank with native hedge planting. The layout also includes the potential for some form of public open space within a central position towards the southern border adjacent to the spine road, and there are shown to be opportunities for wider landscaping which include a replacement landscaped green buffer along the southern border.

Regarding visual character the supporting information includes some artistic street impressions and some indicative house type elevations that depict a mixed use of

materials that suggests the use of render, stone and assumed timber elements within elevations, although precise materials are not expressly detailed.

### **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 Practice Guidance (PPG)
- Published Standing Advice
- Collaton St Mary Masterplan
- 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.

### **Relevant Planning History**

#### **Applications**

P/2019/0615: Outline application for the demolition of Torbay Holiday Motel and redevelopment of site for up to new 39 residential dwellings together with the retention of Beechdown Court, with detailed access (Matters of Appearance, Landscaping, Layout and Scale reserved) (As revised by plans received 20.03.2020 and description amended 24.03.2020). Resolved approval at the November 2020 Planning Committee, formal decision pending. Might be worth saying why the decision is pending. Members seem to be reading Officer reports now and might want to know why.

P/2015/0709: Demolition of motel buildings and erection of 33 dwelling houses with associated infrastructure and amenity land. Application Withdrawn.

## **Summary of Representations**

16 representations have been submitted citing objections to the proposals. In addition, 50 separate pre-typed objections have been submitted from occupants of Beechdown Park citing concerns on the access. A further 2 objections have also been received from health providers, NHS Devon and the Torbay and South Devon NHS Trust.

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.

The concerns raised in the objections are as follows:

- New access route to Beechdown Park and in particular the excessively sharp turn required for vehicles leaving the site.
- Impact on pedestrian movement and access on to public footpath on the Totnes Road if it lengthens the route to walk from Beechdown Park.
- Potential issues for emergency vehicles and refuse vehicles accessing Beechdown Park.
- Impact on health services.
- Flooding and drainage capacity issues.
- Landscape impacts.
- Shouldn't include fields to the rear.
- Additional traffic.
- More water demands.
- Impacts a right of way for Beechdown Park residents.
- Impact on ecology.
- Asbestos.
- New access point more dangerous.

Supporting comments include:

- Support the principle as it's a brownfield site.
- Removes unsightly buildings.
- Improves access from the A385.
- Would support it if highway and access concerns can be addressed.
- Desirable to redevelop considering the decay of the site.
- Welcome any improvement considering the state of the site and the associated problems its dereliction causes.
- Application should proceed if parking issues can be resolved.

## **NHS Devon**

The combined surgeries of Old Farm Surgery, Corner Place Surgery, Mayfield Medical Centre and Pembroke House Surgery already over capacity within their existing footprint. Old Farm Surgery have plans for circa £15,000 funding to help create space for additional staff required to create more clinical capacity by amalgamating two small rooms to create a more useable space to cater for more staff. Mayfield Medical Centre have plans for circa £20,000 to create an additional clinical room. Request a financial contribution that will be utilised to fund either scheme to increase local capacity. For

31 dwellings a total contribution required of £15,068 to mitigate the impact of additional households in terms of increasing local capacity.

Torbay and South Devon NHS Foundation Trust:

Section 106 of the Town and Country Planning Act 1990 (as amended) allows the Local Planning Authority to request that a developer contributes towards the impact a development creates on services. The contribution of £18,230 is sought towards the gap in the funding created by each potential patient from this development.

Officer response on the NHS Devon and the Torbay and South Devon Foundation Trust comments:

The Local Plan and Planning Contributions and Affordable Housing SPD only seeks healthcare contributions where sites are not allocated in the Local Plan. The former Torbay Holiday Motel is an allocated housing site expected to deliver 25-30 houses across the entire site, which included Beechdown Court apartments. Beechdown Court is retained and hence is consented the development would present additional health needs over that expected through the Development Plan. The request from NHS Devon for contributions towards improving surgery facilities is considered relevant due to the net provision of residential units being significantly greater than expected through the Development Plan and is deemed as being a CIL compliant obligation within the scope of the Local Plan/S106 SPD. This obligation should be secured through the accompanying S106 legal agreement.

In regard to the request for gap funding such obligations are not considered to meet the necessary tests and advice is that the obligation cannot be sought.

**Summary of Consultation Responses**

**Highway Authority:**

Connectivity:

The Highway Authority believe that it is important to secure active travel routes into the adjoining Future Growth Area (FGA). A continuous route cannot be secured, as it stands, therefore it is important to ensure that the land edged red allows for connectivity. It is therefore suggested that a reserve access point is provided which connects directly with adjoining land to the south so that, as later phases of development come forward, an alternative route is available. Under Policy SS2 of the Local Plan, it is a requirement to ensure connectivity with FGA's and therefore all access points should be secured at this stage.

Sustainable Transport Contributions:

As the Planning Application was submitted in 2022 it will be assessed in accordance with the 2017 version of the Planning Contributions and Affordable Housing SPD. For Sustainable Transport costs this is indicated as 'trip rate x £171' per dwelling. The Transport Statement submitted by the applicant (ref. 11032-HYD-XX-XX-RP-TP-4002) identifies a daily trip rate of 4.792 (contained with Appendix G – TRICS Outputs). The Planning Statement says that in accordance with Local Plan Policy 20% of

dwellings will be affordable, resulting in 6 dwellings. Therefore, the Sustainable Transport cost will be  $(4.792 \times 171) = \text{£}819.43$  (per dwelling)  $\times 24$  (number of market houses) =  $\text{£}19,666$ .

#### Further Contributions:

Torbay Local Plan Policy SS6.2 and SPD3 indicates that development along the Totnes Road corridor will require infrastructure improvement works to the A385 Totnes Road area. As stated in Paragraph 4.2.7. of the Planning Contributions and Affordable Housing SPD, this is estimated to be  $\text{£}1$  million. It is deemed appropriate to divide the cost of works against the total number of dwellings proposed within the Adopted Masterplan (currently estimated at 460) providing a figure of  $\text{£}2,174$  per dwelling. As the P/2022/0771 relates to 30 dwellings, this results in a requirement of  $30 \times \text{£}2,174 = \text{£}65,220$ .

A S106 contribution ( $\text{£}8,000$ ) to cover the costs of the TRO (Traffic Road Order) and implementation, with the view that we have 10 years to carry out the works associated with the order, linked to a review of the 30/40mph boundaries.

Additional issues that have been resolved:

Revisions to the detailed access remove previous concerns on the width of carriageways and turning lane. The access into the site is considered acceptable.

The revised indicative layout for the site, together with the submitted swept paths for refuse and long/wide loads (mobile home delivery/removal), has removed previous concerns on the requisite access and egress through the site for larger vehicles.

#### **Torbay Council (TDA) Drainage Engineer:**

Further to the email dated 1st June 2023 attaching the revised surface water drainage details for the above planning application, I would like to make the following comments:

The latest surface water drainage information that has been submitted confirms that the drainage has been designed in order that there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

Providing the surface water drainage is constructed in accordance with the submitted surface water drainage drawing number 1004 P07 and the hydraulic modelling dated 31st May 2023, I have no objections on drainage grounds to planning permission being approved.

Torbay Council have secured grant in aid funding towards a flood alleviation scheme on the Yalberton watercourse which is currently at the detailed design stage. As the surface water run-off from the proposed development is likely to impact on this watercourse within the flood alleviation scheme a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contributions within the Collaton St Mary area, a previously agreed figure of  $\text{£}563$  per dwelling has

been identified. As a result, the S106 contribution from this development to the flood alleviation scheme should be in the sum of £16,890 (30 x £563).

**Devon County Council Ecologist:**

Advice dated 21.06.2023: Following further information the summary position is that the development is supported on ecology grounds subject to conditions.

Clarification email 22.06.2023: All of the previous conditions (P/2019/0615) other than the one requesting the bat licence are still relevant for this application.

Final summary advice:

European Sites: South Hams Special Area of Conservation

The site is within the Landscape Connectivity Zone for the South Hams SAC with respect to Greater Horseshoe Bats. A Habitat Regulations Assessment has been completed and, provided the mitigation measures are secured by condition, there will be no adverse effect on the integrity of the South Hams SAC alone or in-combination with other proposals or projects. Natural England have been consulted on the detail of this conclusion and do not object.

Priority Habitats

There will be a loss of 0.1ha species-poor hedgerow and loss of 0.1ha of broadleaved woodland. A planted hedgebank and belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin is to be provided to the south of the site, which is considered adequate compensation. Planting of broadleaved trees will compensate for the loss of broadleaved woodland habitat.

Other Habitats

There will be a loss of 0.09ha of scrub and 0.15ha of semi-improved grassland. A 5m wide species rich field margin will adequately compensate for the loss.

European Protected Species

Various conditions should secure development that protects bat commuting and foraging, including securing compensatory habitat, lighting restrictions during construction and operation phases, and management of the construction phase. Replacement roosting facilities should also be secured, with detail agreed by condition, with any permission subject to the satisfying the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed. The first two tests (below) are essentially planning tests and are for the LPA to conclude. The third test it is my opinion that the test is satisfied for the impact on bats associated with buildings, as given the mitigation measures included within the Bat and Habitat Survey Report and Updated Ecological Impact Assessment for Bats, which includes the new bat roost building, bat tubes and mitigation against disturbance, it concluded that the third test of the Habitats Regulations is satisfied.

The tests are:

- i) The consented operation must be for 'preserving public health or public safety or other imperative reasons for overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment';
- ii) There must be 'no satisfactory alternative';
- iii) The action authorised 'will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range'.

#### Other Protected Species

Dormice: Previous surveys and there was a likely absence. However, a precautionary approach is recommended in the absence of update surveys, which would include checks of suitable habitat prior to works. Should dormice be recorded an EPS licence may be required and thus the 3 derogation tests should be considered prior to the grant of planning permission, and accordingly whether Natural England are likely to grant an EPS license. Again the first two tests are planning tests and are for the LPA to conclude. The third test I would conclude that given the mitigation measures included within the Updated Ecological Impact Assessment which includes mitigation against disturbance and replacement dormouse habitat, it is my opinion that the third test of the Habitats Regulations is satisfied.

Badgers/birds and reptiles: Conditions will ensure adequate protections of these species.

#### **Torbay Council Strategic Planning (Policy) Officer**

The former motel site is allocated for development under Policy SS2.2/SDP3.3 of the Adopted Torbay Local Plan 2012-30 as part of the Collaton St Mary Future Growth Area. Policy PNP24 of the Neighbourhood Plan is also relevant. Policy PNP24(d) seeks to prioritise the redevelopment of brownfield sites, which is also reflected in Table 8.1 Phasing Conclusions on P93 of the PNP. The site is shown as part of the Phase 1 development in the Adopted Collaton St Mary Masterplan SPD. The Masterplan shows the site providing a safeguarded access link to the proposed housing to the south of Totnes Road.

Torbay has a substantial shortfall in its housing delivery measured both against the Local Plan, and the government's "standard methodology local housing need" figure of 605 dwellings a year (sometimes referred to as the government's "housing target"). The council cannot demonstrate a five or three year housing supply. On this basis Policies SS3 and SS13 of the Local Plan are particularly relevant. These seek to "consider favourably applications for new housing, consistent with Policy SS2, H1 and other policies of the Plan". Policy SS3 sets out a "Presumption in favour of sustainable development" which operates separately from the NPPF, although clearly influenced by the Framework.

On the basis of the above, the application must be considered on the basis of the Presumption in Favour of Sustainable Development in paragraph 11 of the NPPF. In broad policy terms it is allocated within the Plan and should be approved under 11(c). Where there are difficulties with the proposal they would need to be considered on the basis of the "tilted balance" at 11(d) ii. It's possible that some issues could trigger a



“clear reason for refusal” under 11(d)i. But the bar to trigger a “clear reason” refusal on an allocated brownfield site is a high one.

Turning to S106 matters, the application was received in 2022, so falls under the 2017 iteration of the Planning Contributions and Affordable Housing SPD.

In terms of the NHS’s request for S106 contributions there are two requests. The letter dated 25th October refers to the gap between housing being occupied and NHS funding becoming available, and relates to general funding. In my view this cannot be sought when considering case law and the adopted local SPD. The second NHS Devon LPA Engagement letter does relate to infrastructure improvements needed by local GP surgeries needed to support additional housing. This is seeking £15,068 towards surgery improvements. This is a different matter from the NHS gap funding argument, and much more closely aligned to the CIL Tests of Lawfulness. I would support George Grute’s request for contributions towards improving surgery facilities as being a CIL compliant policy and within the scope of the Local Plan/S106 SPD.

Taking the above into account I do not wish to object to the application on planning policy terms. Substantial weight needs to be given to boosting housing supply on an allocated site.

#### **Torbay Council Affordable Housing Team**

Affordable Housing Policy H2 requires a 20% provision of affordable housing on brownfield sites of 20 or more dwellings. This should be broken down as 1/3 Social Rent, 1/3 Affordable Rent and 1/3 shared ownership. The applicant has accepted the implications of Policy H2 and the accompanying SPD in their Planning Statement.

The applicant indicates that the scheme is eligible for a vacant building credit (vbc), which will reduce the provision of affordable housing from the policy position in line with national policy guidance.

I agree with the applicant that given this is an outline application, the impact of vbc upon affordable housing provision cannot be fully assessed. The applicant should submit an Affordable Housing Plan prior to or with the reserved matters application for agreement by the Council. This requirement should be secured within the section 106 agreement.

The LPA would welcome an early dialogue in respect of the Affordable Housing Plan.

#### **Green Infrastructure Manager (Swisco)**

Regarding open space provision in respect to this development ‘Major’ developments are expected to provide public open space as part of their layouts. Without prejudice, should the application be approved, the Green Infrastructure Team request the adoption of this public open space and the necessary (25 year) maintenance payments for these areas. In addition, where on-site provision, does not entirely meet the additional demands created by occupiers of the development, commuted payments for offsite provision and enhancement of open space are sought. Please refer to the relevant SPD detail.

#### **Natural England**

The appropriate assessment (AA) concludes that Torbay Council is able to ascertain that the proposal will not result in adverse effects on the integrity of the South Hams SAC. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures specified in the AA are appropriately secured by conditions or Section 106 agreement in any planning permission given.

### **South West Water**

South West Water has no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy.

### **Torbay Council Waste and Recycling Officer**

In response to this consultation request I can confirm that the development would be provided with individual waste and recycling containers (2 x recycling box; 1 x blue bag for paper; 1 x food waste bin and 1 x 240 litre wheeled bin for refuse), which will need to be stored within the boundary of each property between collections. Residents are also able to subscribe to a garden waste collection, which if used will mean they need to store an additional 240 litre bin.

On collection day residents will need to present their recycling and waste at the curtilage of their property, next to the public highway. SWISCo will not drive on to unadopted highway to collect recycling and refuse, so it would be useful to confirm whether there are plans for all of the roads to be adopted or if some will remain as private shared drives? If there are shared private drives residents will need to bring their containers to the public highway for collection, as our operatives will not walk the containers out.

### **Torbay Council Community Protection Officer**

No objections subject to the inclusion of a Construction/Demolition Management Plan condition. This would need to be pre-commencement, submitted and approved, to demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust.

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

From a designing out crime, fear of crime and anti-social behaviour perspective the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision-making process for the planning authority.

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

Access and movement (Permeability) - Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.

Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict. It is noted that residents will be given space for two bicycle storage

either in within in a shed or in the garage. Where this is inside a garage there should be sufficient space to remove the bicycle without the need to remove a vehicle within the garage.

Public open spaces should be designed to allow natural surveillance from nearby dwellings. It is appreciated that plot 15 is facing this, however it appears this is the only property that will have natural surveillance from active rooms. It would be suggested that to improve the surveillance onto the public open space that plot 7 is repositioned to allow for more surveillance from active rooms.

Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked.

Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.

Boundaries between public and private spaces should be clearly defined. Plot 15 should have a clear front boundary to prevent casual intrusion into the front garden from the public open space.

Physical protection - Places that include necessary, well-designed security features as required by ADQ and SBD Homes 2019

Rear boundary treatments must be robust and attain a minimum height of 1.8 m. If greater surveillance is required, the solid boundary treatment could be reduced to 1.5m with a trellis topping of 0.3m or 0.6m. Where gates are installed for access into private rear gardens these should be the same height of the adjoining boundary treatment, robustly constructed and be lockable from both sides by means of a key as an example.

Where shared rear access footpaths are proposed, these should also be gated with access controlled for the associated residents only. The gates must be placed at the entrance to the footpath as near to the front of the building line as possible to prevent unnecessary recesses.

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

Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime in the present and the future.

#### Parking

Communal car parking should be lit to a standard of BS5489-1:2020. Please be advised that we would not support the use of low level bollard lighting in parking areas as these should only be used for wayfinding and demarcation purposes as they generally do not provide sufficient up lighting to aid facial recognition, which can increase the fear of crime. Also, once a car is parked adjacent to a bollard light the light spill will be reduced to lighting the car only.

Tandem parking should be avoided as it is likely that from a practical and convenient point of view only one of the spaces will be used which will encourage unplanned parking elsewhere. The 'elsewhere' has real potential in creating vehicle and parking related problems which the police can spend a lot of time dealing with.

## **Key Issues/Material Considerations**

### **Planning Officer Assessment**

1. Principle of Residential Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Residential Amenity
5. Highway Safety
6. Ecology and Biodiversity
7. Drainage and Flood Risk
8. Low Carbon Development
9. Affordable Housing
9. Other Considerations

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

The application site is located within a 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 the site is also part of a Future Growth Area, as identified within Policy SS2 of the Torbay Local Plan, where it sits in the identified *Paignton North and West Area, including Collaton St Mary* (Policy SS2.2). The site forms part of the Paignton North and Western Area SDA and Policy SDP3 of the Torbay Local Plan identifies that 460 houses could be provided within the Totnes Road / Collaton St Mary Future Growth Area over the plan period. Policies SS1 and SS2 identifies that Future Growth Areas are areas within SDAs that show broad locations where the Council will seek to work with landowners and the community, through neighbourhood planning and/or master-planning, to identify in more detail the sites, scale of growth, infrastructure etc that is required to help deliver the aspirations of the Local Plan.

The Torbay Local Plan offers some specific reference to the site within the accompanying explanatory text (5.3.3.8) to Policy SDP3 where it states that a smaller amount of housing (around 40 dwellings) is possible in the shorter term at the former Torbay Holiday Motel, which is an under-used brownfield site.

The site is also subject to an adopted masterplan for the wider Future Growth Area (adopted February 2016). The Collaton St Mary Masterplan identifies the application site for residential development and identifies the site as being 'Phase 1', with introductory commentary as follows;

*At the western end of the village is the vacant motel site. It is surrounded by occupied uses on either side, including a static caravan site along its eastern boundary and a car showroom and dwellings to its west.*

*The development of this site will affect the long term viability of the rest of the masterplan proposals. This first phase needs to be designed and laid out in such a way as to ensure that access is safeguarded to future phases further east. In essence, this first phase will form one of 2 major gateways into the southern part of the masterplan. Therefore, its primary value is not in achieving maximum housing numbers on the site but rather in providing a gateway into a larger area.*

The expected number of units within the Masterplan's schematic proposal suggests the delivery of between 25-30 houses, together with a small area of public open place space, a safeguarded link into 'Phase 3' area to the east and retained future access links to the park home site.

In terms of the Paignton Neighbourhood Plan Policy PNP24 (*Collaton St Mary Village*) outlines that any further development beyond the currently developed areas will only be supported where the proposals are in accordance with the adopted masterplan for the area. As the application site is identified as a potential site for housing within the adopted masterplan the Neighbourhood Plan is considered to support the principle of housing development on this site. The current proposal is considered to be generally consistent with the Masterplan proposal, as although a larger number of dwellings are proposed when considering the retention of Beechdown Court apartments, the layout and number shown on the masterplan are indicative and the indicative layouts in the Masterplan are schematic and should not be taken as a ceiling on the number of dwellings that can be achieved.

It should be noted that the application site includes a linear section of the adjacent field, which is not referenced or included for development within the adopted masterplans commentary, although it does sit within the Future Growth Area identified within the Torbay Local Plan. The inclusion of this additional parcel of land is not considered to present any overriding conflict of policy in terms of broad principle as the addition is relatively limited and the site is principally that of the motel site. The impact of the inclusion of this land should duly consider landscape and ecology impacts though, which will be discussed in later sections of this report.

Due to the reasons stated above there is deemed to be a consistent policy umbrella that supports the principle of the site's redevelopment to provide housing. This position is supported by the Council Strategic Planning Team in their policy response.

In terms of other material considerations the Local Planning Authority supported the principle of housing on the site when it resolved approval in November 2020 for outline planning permission for 39 dwellings under planning reference P/2019/0615. Although formal grant of outline planning permission was not established the decision of the planning committee under the same policy umbrella is a material consideration in terms of supporting the principle of housing.

In addition to the above, the Council cannot currently demonstrate a 3 or 5 year housing land supply, which is a relevant material consideration to the principle. For decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are to be considered out of date and therefore should be afforded limited weight within the

current decision-making process. The ‘tilted balance’ in favour of sustainable housing development therefore applies subject to the detail wording of the NPPF Para 11 and the associated footnotes. This principally means that for permission to be withheld either (a) the application of policies in the NPPF that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development or (b) harm would significantly and demonstrably outweigh benefits. This current context therefore increases the prospect of planning permission being granted because it ‘tilts’ the balance in favour of approving an application for housing. Notwithstanding the NPPF and the ‘tilted balance’ guidance this does not displace the primacy of the Development Plan, however as stated above there is broad policy compliance with strategic and housing policies due to the sites location within an identified Future Growth Area and its identification as a ‘housing’ site.

All matters considered the principle of residential development is therefore accepted, when considering strategic policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, and the Development Plan as a whole. This is purely a matter of principle and the broader merits of the proposal and other material considerations, will be discussed in more detail in the following sections of the report below.

## **2. Design and Visual Impact**

Whilst the proposal only seeks detailed consent for the proposed access, being in outline with all other matters reserved for future consideration, the submitted information does include an indicative site layout and further detail on the potential character and appearance of the development. It is necessary to consider whether the submitted detail indicates and ultimately provides sufficient comfort that the amount of development (up to 30 dwellings) could be appropriately achieved in terms of its layout, design and resultant character.

Achieving good design is a central thread within government guidance and Part 12 of the NPPF “Achieving well-designed places” offers key guidance. Paras 126 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 134 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.

In regard to the Local Plan Policy SS2 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 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 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 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 sets out local design criteria, whilst PNP24 seeks development to be designed in such a way that it re-establishes the village character (of Collaton St Mary) and respects prominent landscape and other features.

The application is supported by an indicative masterplan and landscape plan that seeks to present how the amount of development could be laid out within the site. There is also some artistic impressions of the frontage street-scene and the central street-scene and some indicative elevations, which seek to offer a potential understanding as to a possible design ethos and general character. The submitted Design and Access Statement that accompanies the application also has some limited detail on layout and design with the central messages offered below;

- Creation of strong clearly defined streets with a rural character.
- A primary route defined by a variety of house types and styles that directly address the street, with minimal defensible space to the frontage.
- Car parking generally located in parking courts to the rear, to minimise the presence of cars within the streetscene.
- Frontages offered to the conspicuous northern and eastern edges of the site, ensuring that the development positively addresses Totnes Road and improves the appearance of the site when viewed in prospect in distance views from the east.
- The main entrance to be defined by turning gateway feature buildings.
- Provide a green area of Public Open Space which sits in the heart of the development.

In regard to the outline proposals submitted for consideration it is deemed that the broad layout presents a satisfactory foundation that a future reserved matters could be evolved from, inasmuch that it provides an acceptable entrance to the development that is safe and legible, which leads to a direct and legible central route for what is expected to be the main route through to a later phase of the masterplan area. This appears a reasonable approach and is detailed to provide access to the edge of the site to enable future linking to the wider masterplan development to the east (Phase 3).

In regard to other positive foundations the layout also maintains an access to Beechdown Park to the east, which again aligns with the adopted masterplans expectation of a future link being engrained within any redevelopment, and it also maintains an access to Beechdown Court to the West. It also generally presents a perimeter form of development that results in buildings positively addressing the public realm. This concept generally helps support the delivery of attractive streets and secures natural surveillance of public spaces, which aids designing out crime.

Moving on to the likely form of development that the layout may inform it does present a relatively uniform density throughout. This is a point of concern that should be addressed by further design work to inform a future reserved matters application. It is considered a key urban design principle that any future layout responds to the context and presents a hierarchy to the streets, and this is likely to include reconsideration to the form of development on the 'central spine', in terms of it having a clear status as a through route. The orientation and direct nature of the route supports the potential of it being legible as a through route but the even density and apparent lack of the

strength to the built form is considered to somewhat fail, in terms of delivering on the rural, rather than suburban, expectation for this edge of settlement gateway site. Away from the central spine the ambition of having frontage development addressing the Totnes Road is welcomed as a principle, certainly where it is married with a demonstrable landscape buffer, which itself is likely to slightly soften the development and improve future residential environment of occupants adjacent to what is a busy and noisy road.

Moving on the likely built form the layout plans and indicative images present buildings with a mixed palette of materials (visually they suggest elements of stone, render and timber) behind what appears largely open plan frontages mixed with parking and landscaping. In terms of submitted supporting text the Design and Access Statement suggests a positive response to a rural context is necessary. This concept is supported and a strong response to the rural context will be key to see evolved and successfully delivered in a future reserved matters application. The Development Plan policy aspirations (Paignton Neighbourhood Plan) for the use of natural materials should be duly considered and it is expected that a reserved matters would be positively evolved in terms of natural materials sensitive to the rural context. As detailed the current plans are only indicative and further scrutiny will be at reserved matters stage. In terms of other matters it is relevant to note that the parking provision appears relatively suburban in terms of the indicative form and further thought should be given to softening the prominence of these elements and possibly providing some variety to its form. Another observation on form is the building lines and public frontages and boundary treatments present some concern in terms of whether the indicative detail would successfully deliver a rural character. Open plan is not particularly rural in character and a stronger enclosure between the public realm and private areas should be duly considered in the evolution of the reserved matters. Rural development is more generally a mix of buildings directly abutting the public realm where appropriate, or buildings set behind strongly defined boundary treatments such as stone walls or hedging, clearly defining public from private.

Although, as detailed, there are some areas of concern these concerns should not be considered as fatal to this current outline application. There is deemed to be sufficient comfort that the amount of development could be appropriately delivered and there is sufficient comfort that the design aspirations towards a rural character outcome is sufficiently clear notwithstanding some areas of concern on the indicative layout and supporting information. It is hence expected that any future reserved matters would need to evolve a stronger design assessment and solution to capture a more rural character, which may present less suburban parking arrangement, stronger landscaping, and stronger enclosures and definition between public and private space. In regard to the materials the use of natural materials would be expected considering the indicative detail, the supporting statements offered, and considering Development Plan policy.

In summary, in terms of design and visual impact the outline proposal provides a loose basis for a future reserved matters application. There is sufficient comfort that up to 30 dwellings could be delivered to offer support for this outline application, with scope within the site and potential to positively resolve the points of concern.



To conclude it is considered that the proposed access arrangements would not result in unacceptable harm to the character of the area. Based on the indicative information provided, the proposed development is, for the reasons above, considered to sufficiently demonstrate the potential to provide a satisfactory form of development subject to further work to resolve the concerns raised. The proposal is therefore on balance considered to be in accordance with Policies SS2, SS11, H1 and DE1 of the Torbay Local Plan, Policies PNP1, PNP1(c) and PNP24 of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and the NPPF.

### **3. Impact on Heritage Assets**

As an outline proposal with all other matters reserved for future consideration except for the access, it is necessary to consider the likely impact upon heritage assets of the expected scheme.

The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199).

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

The site is not within or within the setting of a Conservation Area. Listed buildings in the area do not sit immediately adjacent to the site. Blagdon Manor (Grade 2\*) is the nearest listed building, sitting approximately 200m to the north across the A385 and nestled on the far edge of a holiday park. Further afield approximately 800m to the east a group of listed buildings sit around the junction of the A385 with Blagdon Road, which include the Grade 2\* Parish Church. There are also listed barns (converted) approximately 1km away to the north east at the junction of the A385 with Stoke Road. There are no obvious or overtly sensitive visual links to listed buildings which could possibly present harm to their settings. Finally, the kinetic relationship has also been considered and the redevelopment of the defunct motel site for residential purposes will not alter the experience of passing through the area and would not affect setting of listed buildings nearby.

In light of the context of the site and how it relates to the listed buildings on the area there is no harm to the setting of the heritage assets. The proposal is considered, in terms of heritage assets, in accordance with Policies SS10 and HE1 of the Torbay Local Plan and Paragraph 199 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.

#### **4. Residential Amenity**

The Development Plan contains policies and the NPPF contains guidance that seeks an appropriate quality of residential environment for future occupiers of residential development, and for neighbouring occupiers or uses to be duly respected. Although the application seeks outline approval with only the access fixed it is necessary that the application presents sufficient evidence that the amount of development could be delivered with adequate amenity for future occupiers and neighbours.

In terms of the Development Plan Policy DE3 states that development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact up on the amenity of neighbouring and surrounding uses. It also engrains size standards and standards for outdoor space. The NPPF (Para 130) guides that decisions should ensure that that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

In terms of broad use residential development would align with the residential uses nearby and the development would not result in undue noise or general disturbance for existing occupiers adjacent to the east or west.

In terms of the likely form of development and potential impact on neighbouring occupiers the indicative layout and scale (two-storeys) is deemed to show that the amount of development proposed, up to 30 dwellings, could be delivered without undue impact. Broadly the indicative layout presents dwellings that are unlikely to cause undue loss of light, outlook, or privacy for adjacent occupiers. As the proposals are currently indicative any grant of consent would not 'fix' the final form of development and the future reserved matters would present the point in time to scrutinise the relationship and likely impacts in detail, when the final layout and form, and hence distances to neighbours, levels etc will be proposed.

In terms of the level of amenity afforded future occupiers of the development itself the indicative proposals present dwellings with adequate internal and external amenity areas that accord with Development Plan Policy DE3, which includes minimum space standards and levels outdoor amenity space. The indicative plans show all dwellings exceed the minimum space standards and all dwellings, excluding a potential flat above an access, exceed the minimum garden size expected of 55sqm. In terms of outlook, natural light and likely privacy levels the general layout appears satisfactorily suggest 30 dwellings could be delivered with most dwellings within the indicative layout showing what is likely to offer suitable inter-relationships. There are limited occasions in the indicative layout where properties face adjacent blank walls at circa 10m which, for 2-storey development, should be better resolved reflecting on the quality of outlook. However, overall, there would appear sufficient scope to address these issues through design evolution towards the reserved matters, and hence these concerns should not be considered fatal for this application. It is relevant to note the indicative proposals to set back properties from the A385 and to provide substantial landscaping. Considering the apparent hostile and noisy environment that this highway presents this indicative element appears well considered and should be

positively retained and evolved through the reserved matters stage should outline planning permission be granted.

In terms of ancillary elements that influence residential quality parking, cycle parking and waste storage are key domestic elements to consider. The indicative plans show 2 parking spaces per dwelling, which is the policy expectation within the Development Plan. These are indicatively shown as being largely delivered on each plot, however there is a central shared rear courtyard for a few properties. Electric parking facilities should be delivered for every dwelling, and this is suggested to be clarified by a planning condition for future reserved matters to include. Cycle parking facilities are not shown and would need to be evolved within a future reserved matters application, to deliver 2 cycle spaces per dwelling. This is suggested to be secured by planning condition, similar to the final parking provision. Considering the likely form of dwellings cycle parking could readily be delivered within ancillary structures on-plot and hence the lack of indicative planning is not considered unacceptable in terms of consideration of this outline application. In terms of waste storage, like cycle parking, there appears to be the opportunity to deliver storage facilities within gardens. Where plots do not have natural collection areas to the frontage it would be expected that future reserved matters detail did include collection day point detail within the layout where needed. Within the indicative layout this may apply to a number of plots. Such detail would seek to ensure suitable 'drag' distances and collection areas that would minimise potential obstruction to footpaths or unsuitable use of landscaped areas.

Finally in terms of the construction phase this will naturally have some temporary impacts however such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts using a planning condition. The retention of adequate residential access during construction phase to the adjacent park homes site and the adjacent apartment should be duly protected through consideration of a construction management plan, secured by condition.

In summary the proposal appears to demonstrate the potential to provide a satisfactory form of development in terms of protecting the amenities of adjacent occupiers, but greater scrutiny on this will be undertaken at reserved matters stage. On the information available the development is also considered to evidence scope to deliver the amount of development proposed in a form that could accord with Policies SS11, DE1 and DE3 of the Torbay Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan, the adopted Masterplan for Collaton St Mary, and guidance contained within the NPPF.

## **5. 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 110). It also furthers (Para 111) 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. These matters have been previously discussed within the officer assessment section of this report.

In regard to vehicular access the development would be served by a single new access junction which includes a right hand turn lane off the Totnes Road. The visibility standard of the junction is considered acceptable by the Highway Authority. The Highway Authority has considered the junction detail and following revisions, principally to secure wider carriageway widths, they raise no objections in relation to the proposed vehicular access arrangements. It is considered that the proposal would not result in significant harm to highway safety or amenity and would accord with local and national guidance. The detailed access point into the site and integrated works to the highway are hence considered acceptable.

Beyond the access point into the site the detail is currently indicative and would be considered again through a future reserved matters (layout) application. The proposed site layout currently submitted is not being applied for at this time. It is indicative detail to support that the site has the potential to deliver the amount of development proposed. Key elements of the indicative layout are outlined below.

The junction into the site and central road through the indicative layout to the southeast corner is designed as a major access road with 6m width carriageway suitable for bus movement. This accords with the expectation within the adopted Masterplan for the spine road to be designed as such, future-proofing potential use should the wider masterplan area come forward.

The spur road to the east provides a link to Beechdown Park and is shown as 5.5m wide, which is appropriate for the number of dwellings it would serve. Other spur roads are detailed as 4.8m wide which accords with highway width design guides for roads serving less properties.

In terms of sustainable travel modes, the indicative layout shows an enhanced pedestrian/cycle route along the frontage, which improves the current situation. The indicative plan also indicates a link to this at the north-eastern corner of the site. In terms of permeability for future residents of the development, and residents of adjacent sites, this ambition is positive and is supported. It is noted that several representations raise the harm from impeded access to bus stops etc, however the delivery of a link in this location will improve the current access situation for adjacent occupants. In terms of wider permeability, it is deemed beneficial to secure a similar link to the southern

border, to future-proof potential access to the countryside. Both of these sustainable access points should be secured by a planning condition.

In terms of the internal layout more broadly the indicative layout is considered to present a permeable and safe environment for pedestrians with natural surveillance through the scheme. The layout will however be scrutinised at reserved matters stage, including the provision or absence of footways in certain areas.

In terms of more general movement needs due consideration has been given to the requisite access requirements for waste collection vehicles, and for the more site-specific requirement for Beechdown Park in terms of access and egress of mobile homes. The latter concern is raised within several public representations. Through the course of the application swept-path detail, and the subsequent layout, has been submitted and evolved to show that (a) refuse vehicles can access and egress all parks of the site, and (b) that larger vehicles (for mobile homes) can safely access and egress to and from Beechdown Park. The information submitted has satisfied the Highway Authority on these matters. It is important to note that a future reserved matters will seek a detailed layout and would again scrutinise the layout's ability to deliver safe access and egress for refuse and larger vehicles.

In regard to other matters Torbay Local Plan Policy SS6.2 and SDP3 indicates that development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. The Highway Authority comments seek mitigation funding in accordance with the council's Planning Contributions and Affordable Housing SPD and based on the scale of the development expected within the area and within this site a proportionate funding level of £65,220 should be secured.

In terms of other matters funding to secure improved sustainable transport links should be secured in accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to the open market dwellings). This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre. It has been raised that improved access facilities to inbound bus stops (central refuge areas) should be secured through this obligation. Again, this obligation should be secured via a S106 legal agreement.

As a raised site acceptability matter funding towards amendments to the speed limits in the area should be sought. A Road Traffic Order will be required and £8,000 funding for costs has been requested by the Highway Authority. This funding should be secured by legal agreement.

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 111), the proposal is, subject to securing the identified off-site sustainable transport links and financial transport obligations towards the western corridor improvements, sustainable travel and a local traffic order, 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.

Policy PNP1 (Area Wide) of the Paignton Neighbourhood Plan states that development will not be supported where the development proposal would result in an adverse impact on a European protected site and Policy PNP1 (c) *Design Principles* includes a number of aspirations for development to secure, where possible and appropriate to the scale and size of development. PNP1 (c) includes reference to safeguarding biodiversity and geodiversity by ensuring that layout and design will protect existing features of biodiversity value on site and biodiversity connections with related sites and ensure that features of geodiversity value are protected and wherever possible enhanced in their condition and future management. The policy furthers that hedgerow habitat should be provided on at least one development boundary wherever possible, and that bat and bird boxes should be featured.

In terms of the ecology context the site is a brownfield site with unkempt buildings and areas of overgrown scrub and occasional trees, which also encompasses a section of the field to the south and boundary tree belt.

Considering the context, the key ecological issues relate to the use of the site by Greater Horseshoe Bats (GHBs) and the consideration of the likelihood of a significant effect, along with broader ecology considerations regarding notable habits, protected species and together with broader biodiversity enhancement aspirations.

In regard to the potential impact upon GHBs associated with the South Hams SAC the proposals include the creation of a 'dark' wildlife corridor (<0.5 lux) along the southern boundary, replacing the existing tree belt with a planted 3m wide Devon Bank and incorporating a 5m wide belt of vegetation comprising shrub planting and an herb-rich hedgerow / field margin to the south. It is proposed that the belt of vegetation will be protected from over grazing by a stockproof fence and a 3m high close board fence is to be installed adjacent to the northern side of the Devon hedge to act as a light shield whilst the Devon Bank matures. This is to allow the GHB flight line to remain undisturbed in perpetuity. Management of this flight line should be delivered by a dedicated management company to ensure suitable management in perpetuity, which will need to be detailed in an agreed Landscape and Ecological Management Plan. The Council's ecology advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment which concluded that subject to achieving the outlined mitigation through planning conditions the development would not have a likely significant effect on the South Hams SAC. The Council's HRA/AA has been submitted to Natural England for comment and they support the conclusions made.

In regard to wider ecology considerations there is evidence of bat roosting within the building complex and the proposal includes the provision of a dedicated bat building adjacent to the dark corridor along the southern boundary of the site as part of the

formal mitigation. This will require a European Protected Species (EPS) license and hence the likelihood of Natural England granting such a licence falls on the Local Authority prior and needs considering prior to granting planning permission. The Authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant a license which would permit the proposal to lawfully proceed. In terms of the first test the redevelopment of an unused building and site to provide 30 dwellings provides public benefit and social/economic reasons. In terms of the second test the roost is within the disused building and there is no obvious satisfactory alternative to holistically redevelop the site. In terms of the third test the DCC ecologist considers that the mitigation measures included within the Bat and Habitat Survey Report and Updated Ecological Impact Assessment for Bats, which includes the new bat roost building, bat tubes and mitigation against disturbance, it is my opinion that the third test of the Habitats Regulations is satisfied for the impact on bats associated with buildings. This positive conclusion is similarly offered on potential impacts on dormouse, which was advised as necessary due to the extent of survey work, which this proposed mitigation satisfying the final test again.

In terms of other matters, the Council's ecology advisor has concluded that there is no reason for refusal of the planning application on broader ecological grounds provided the proposals are implemented and maintained in accordance with the ecology documents that have been produced.

In terms of broader biodiversity aspirations in-line with advice from the Council's ecology advisor future reserved matters should duly consider and propose measures to enhance biodiversity, including certainty on the long-term benefits.

In-line with the conclusions above the proposal is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of the Local Plan, Policies PNP1, PNP1(a) and PNP1(c) of the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **7. Flood Risk and Drainage**

National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 166). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 168).

Policy ER1 of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere, which is aligned with guidance contained within the NPPF. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers.

The Paignton Neighbourhood Plan has two key policies relating to drainage and flood

risk. Policy PNP1 (Area Wide) Section (i) *Surface Water* cites that developments will be required to comply with all relevant drainage and flood risk policy. It furthers that proposals which achieve more than sustainable drainage improvements and move beyond Sustainable Urban Drainage systems (SUDs) by keeping surface water out of the combined sewer network at source are encouraged. PNP24 (Collaton St Mary) cites that foul and surface water disposal have become a significant problem in the area and furthers that residential development proposals where appropriate will be required to demonstrate (i) that sufficient capacity exists to accommodate the additional development and not cause any risk of flooding to existing properties, and (ii) there is infrastructure in place to provide for, and service, such growth and development.

The site sits in an area with a low risk (Flood Zone 1) of flooding and the site is also within a Critical Drainage Area as designated by the Environment Agency.

A flood risk assessment has been submitted with the development and there are accompanying surface water drainage plans. As this is an outline application these plans are indicative as the final layout, number of buildings and total areas of managed hardstand etc, is not yet fixed. Therefore, the information seeks to demonstrate that a suitable flood risk / drainage solution is deliverable.

### Surface water

In terms of surface water the Flood Risk Assessment confirms that the existing 'brownfield' site positively drains surface water run-off to an existing private drainage network through the neighbouring caravan / mobile home park to the existing watercourse on the eastern site boundary. An initial Ground Investigation has shown, via percolation testing, that infiltration is not a viable option for surface water disposal at the site. As such, it is proposed that surface water be discharged at a restricted rate to the existing watercourse to the east, with on-site attenuation provided.

The Council's drainage engineer has reviewed the proposal and has concluded that the submitted detail demonstrates that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change. By necessity as this is an outline scheme the layout may change and hence any future reserved matters would need to be accompanied by a detailed strategy that responds to the final proposed layout should outline consent be granted. A planning condition should be used to secure this detail with any future reserved matters (layout) application. This is considered to accord with Policy PNP(iv) as there is a detailed scheme that shows that an appropriate surface water management system can be achieved for the indicative layout.

In terms of other matters there is an identified flood alleviation scheme immediately downstream of the development on the Yalberton watercourse and the council's drainage engineer has identified that as the surface water run-off from the proposed development is likely to impact on this watercourse a contribution to the funding for the flood alleviation scheme should be secured from the developer through S106 funding. In accordance with previous correspondence relating to a section 106 contribution a figure of £563 per dwelling has been identified, which would present an obligation from this development to the flood alleviation scheme to the sum of £16,980



(30 x £563).

### Foul water

In terms of foul water the Flood Risk Assessment confirms the site currently discharges foul water to a foul sewer within the neighbouring caravan / mobile home park to the east. This sewer discharges to a pump station, which in turn pumps foul flows to a public foul sewer in Totnes Road. It is proposed that foul water from the site be discharged via a gravity system to the existing sewer on the eastern site boundary.

South West Water do not object to the development.

Based on the above comments there is no objection to planning permission being granted for the above development subject to a condition requiring the developer to submit their final surface water drainage design for approval, together with the funding above being secured. The proposal is considered, subject to the above, in accordance with Policies ER1, ER2, SS2 and SS7 of the Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

## **8. Low Carbon Development**

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy PNP1(f) of the Paignton Neighbourhood Plan has a similar policy goal towards achieving sustainable low carbon and energy efficient development, where appropriate and subject to viability.

An Energy and Sustainability Statement has been prepared to assess the potential for energy efficiencies, utilising clean energy, sourcing energy from decentralised systems and incorporating renewable energy provision into the development.

As an outline proposal a detailed assessment will need to be undertaken to inform and be part of a detailed reserved matters proposal. At the present time the report identifies scope for energy efficiencies and the use of solar panels.

As matters stand the outline application has duly considered policy desire to reduce emissions and use of natural resources. As highlighted above it is necessary that these statements / aspirations are explored and evolved and are engrained within a future detailed reserved matters application. It is proposed to secure such detail by the use of a planning condition relating to energy efficiently and the submission of such detail as part of a future reserved matters application. with such a condition the development is considered to accord with Policies SS14, ES1 and PNP1(f) of the Development Plan.

## **9. Affordable Housing**

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of brownfield sites for schemes of 20+ dwellings that 20% should be affordable housing. A policy position would hence be for the delivery of 6 affordable units.

Notwithstanding the above the development seeks to deliver new housing in place of the disused motel. Para 64 of the NPPF states that the “Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount”.

As the motel has sat empty for some years the existing floor space is recommended to be accepted as mitigation to reduce the obligation to provide affordable housing, in-line with guidance from Central Government that seeks to help unlock brownfield sites.

As an outline permission the extent of affordable housing cannot be offered until the detailed number and floor space of proposed housing is offered at reserved matters stage. However, Members are minded to appreciate that the application of Vacant Building Credit is likely to demonstrably reduce, or negate altogether, the provision of affordable homes from the policy position of 6 dwellings.

Considering the above the recommendation is for affordable housing provision to be secured via a S106 to a policy compliant position, with understanding of the final provision being linked to the final reserved matters and being subject to Vacant Building Credit.

## **10. 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 when considered as a whole. 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.

The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate a 3 year supply, which is a significant shortfall.

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). Were this judgment different and the proposal considered to conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development as it triggers a tilted balance in favour of sustainable development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. As stated the land is identified for housing

and the development broadly accords with an adopted masterplan for the area, that is itself supported within the Neighbourhood Plan, the conclusion would in such a circumstance be that the adverse impacts are not significant and demonstrable in this context, and the tilted balance in favour of granting permission should apply.

## **Sustainability**

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

### **The Economic Role**

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

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

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

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

### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance. The proposed development will provide a play area as a social benefit to the village and financial contributions will be provided towards education infrastructure demands.

Impacts on neighbour amenity have been discussed above where it is concluded that it would possible to develop this site as proposed without significant harm to residential amenity.

NHS requests for financial contributions towards increasing local GP capacity is considered reasonable and necessary and should be a secured financial obligation through the legal agreement. Maybe clarify this in the report and mention the representations.

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

### **The Environmental role**

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

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development. It has to be appreciated that the site is identified for housing within the Development Plan and is a semi-derelict brownfield site for the most part.

The proposed development is in a sustainable location inasmuch as it borders and forms part of the existing urban area and is located in close proximity to local amenities of West Paignton where there are also public transportation links.

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

### **Sustainability Conclusion**

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

### **Local Finance Considerations**

#### **S106:**

The following are draft Heads of Terms for a legal agreement, which should be completed prior to a planning consent being issued. Triggers and instalments in relation to the proposed financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

#### **Affordable Housing**

Should be secured via a S106 to a policy compliant position, with understanding of the final provision being linked to the final reserved matters and being subject to Vacant Building Credit.

#### **Highway works**

In-line with Torbay Local Plan Policy SS6.2 and SDP3 development along the Totnes Road area (SDP3.3) will require infrastructure improvement works to the A385 Totnes Road. Based on the scale of the development expected within the area and within this site a proportionate funding level of £65,220 towards the development and implementation of this scheme should be secured.

In order to undertake necessary traffic orders linked to revisions to the 30/40mph zones an obligation of £8,000 is required.

#### **Sustainable Transport**

In accordance with Torbay Local Plan Policy SS7 and the Planning Contributions and Affordable Housing SPD (to open marking housing only) Sustainable Transport obligations should be secured based on "trip rate x £171" per open market dwelling (or other alternative method as agreed). This funding would support strategic connectivity from Collaton St Mary to employment areas along the Western Corridor and into Paignton Town Centre.

### **Flood Works**

Strategic flood alleviation works are required to secure a flood alleviation scheme on the Yalberton watercourse. Dwellings within the FGA and within the catchment drainage to the Yalberton Watercourse a contribution for each property should be secured. The level of funding should be secured based on a figure of £563 per dwelling. As a result the S106 contribution from this development to the flood alleviation scheme should be in the sum of £16,890 (30 x £563).

### **Greenspace and Recreation**

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes a play area. The provision of a Locally Equipped Play Area is considered commensurate for the scale of development in the absence of further comment from the Councils Natural Environment Services Team. Legal agreement should secure adoption or management arrangements for the public open space secured in a future RM application commensurate with the indicative masterplan.

### **Education**

Obligations in-line with the adopted SPD should be sought to secure increased school capacity within Paignton, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

### **Lifelong Learning Obligations**

Obligations in-line with the adopted SPD should be sought to secure library improvements within the area, based on the provision of open market housing, the detail of which will come forward at reserved matters stage.

### **Waste and Recycling**

Obligations in-line with the SPD should be secured to provide waste and recycling facilities for properties that will be served by the Local Authority waste collection provider.

### **Sustainable Urban Drainage System**

Details pertaining to the ongoing management of the proposed SUDs within public areas, by a management company, shall be secured in order to secure certainty on future maintenance and effectiveness of the system.

### **CIL:**

The CIL liability for this development is Nil as infrastructure requirements are secured by S106 legal agreement.

### **EIA/HRA**

#### **EIA:**

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

#### **HRA:**

The application site is within a landscape connectivity zone associated with the South Hams SAC.

A Habitat Regulations Assessment / Appropriate Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC, subject to securing the proposed mitigation measures. Natural England have been consulted and concur with the Council's conclusions.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

The provision of a public play area is also a public benefit, certainly considering the current absence of child's play facilities within the area. The nearest formal play area being at Claylands near the junction of Borough Road and Brixham Road.

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

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

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

### **Proactive Working**

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

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

The site is identified for housing within the Development Plan and the proposal has a broad degree of consistency with the associated adopted Masterplan for the area. Where there is divergence the level of harm is not considered sufficient to deny a presumption in favour of the development at outline stage where there is a further stage to scrutinise any divergence and ultimate harm (through the reserved matters).

There are demonstrable public benefits that weigh in favour of the scheme, notably

housing provision in place of a long disused and derelict motel, the associated regeneration benefits of delivering on this long disused site, an expected provision of local public play space, and improvements to the sites surface water discharge into the local watercourse. Certain financial obligations to mitigate the impact of development will also deliver wider community benefits, for example sustainable transport obligations could, as identified, deliver improved crossing facilities to in-bound bus stops across what is a busy 'A' road.

The only fixed detail being sought is access and the detailed access is considered safe and there is no objection from the Highway Authority.

In terms of broader matters note yet fixed the indicative layout is considered to adequately demonstrate that the amount of development could be delivered within an acceptable form of development. The road layout has addressed movement concerns in terms of safe access and egress for all future users including adjacent occupiers. The revised building layout has demonstrated a good level of amenity is achievable despite some minor concerns and, together with the indicative landscaping and design work, has demonstrated that an acceptable design and character is achievable, again notwithstanding some minor concerns. In terms of these reserved matters it is concluded that commensurate evolution of the stated 'rural character' ambitions outlined within the submitted Design and Access Statement appear achievable.

Key public concerns regarding access and egress have been resolved to the satisfaction of the Highway Authority, and a future reserved matters application will ultimately consider and determine the acceptability of the internal layout including links to adjacent sites.

When considered as a whole the proposed development is deemed to represent sustainable development and is acceptable, having regard to the Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

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

There are no impacts on protected areas or assets of particular importance to provide a clear reasoning for refusal.

### **Officer Recommendation**

Approval: Subject to;

The conditions outlined below, with the final drafting of conditions delegated to the Divisional Director - Planning, Housing & Climate Emergency.

The completion of a S106 Legal Agreement to secure heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers.

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

## **Conditions**

### **Standard time condition:**

That in the case of any reserved matter, an application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

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

### **1. Reserved Matters condition**

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

- (i) layout,
- (ii) scale,
- (iii) appearance; and
- (iv) landscaping.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

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

### **2. Flood risk / Surface Water Drainage**

As part of any reserved matters application for layout a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in-line with the design parameters outlined within the submitted and approved Flood Risk Assessment and Drainage Strategy (surface water drainage drawing number 1004 P07 and the hydraulic modelling dated 31st May 2023), shall be submitted to and approved in writing by the Local Planning Authority.



The approved scheme shall be implemented in full prior to the first occupation of the development unless an alternative phasing plan has been submitted to and approved by the Local Planning Authority and shall then be subsequently maintained at all times thereafter.

Reason: To ensure that there is no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

### **3. Energy / Low Carbon Development**

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The measures shall accord with the submitted and approved Energy and Sustainability Statement and aim to achieve where appropriate;

- the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change.
- the use of reclaimed materials and natural finishes.
- on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible.
- the provision of electric vehicle charging facilities to all dwellings.

The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit and retained thereafter.

Reason: In the interests of sustainable development and in accordance with Policies PNP1 and PNP1(f) of the Paignton Neighbourhood Plan, and Policies SS14, ES1 and TA3 (and Appendix F) of the Torbay Local Plan 2012-2030.

### **4. Play Areas**

The reserved matters for layout and landscaping shall include details of local equipped play area aligned with the details within the adopted Planning Contributions and Affordable Housing SPD that details the type and provision of play for a variety of ages of children. The detail shall include appropriate provision of impact absorbing surface treatments, means of enclosures and litter and seating facilities. The reserved matters shall seek to secure appropriate levels of natural surveillance to all play areas and an appropriate buffer distance from properties to ensure neighbour amenity is not unduly impacted.

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 DE1 of the adopted Torbay Local Plan 2012-2030 and Policy PNP24 of the Paignton Neighbourhood Plan.

### **5. Parking Provision**

The reserved matters for layout shall include details for the parking of 2 vehicles for all dwellings. The approved parking facilities shall be provided in full for each dwelling

prior to its first occupation and shall be maintained for the purposes of parking at all times thereafter.

Reason: To ensure adequate parking is provided to support an adequate residential environment, protect the amenities of the area and maintain highway safety, in accordance with Policy TA3 of the adopted Torbay Local Plan 2012-2030.

## **6. Electric Charging Facilities**

The reserved matters for layout shall include details for the provision of no less than one electric car charging point to serve each dwelling. The approved facilities for each dwelling shall be implemented in full prior to the first occupation of the dwelling and maintained thereafter.

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

## **7. Cycle Provision**

The reserved matters for layout and appearance shall include details of safe and secure cycle storage facilities for no less than 2 cycles per dwelling. The approved facilities for each dwelling shall be implemented in full prior to the first occupation of the dwelling and maintained for such purposes for the life of the development.

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

## **8. Waste Storage Facilities**

The reserved matters for layout shall include details for the provision of waste storage facilities for each dwelling and, as appropriate, collection day points adjacent to the public highway (including materials and any form of enclosure or demarcation). The approved facilities for each dwelling shall be implemented in full prior to the first occupation of the dwelling and maintained thereafter for such purposes.

Reason: To secure an appropriate form of development in accordance with Policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **9. Connectivity**

The reserved matters for layout shall include the provision of a pedestrian/cycle link to the existing public footway within the northeast corner of the site and shall include a pedestrian/cycle link to the southern boundary of the site. The links shall be provided in accordance with a phasing plan to be agreed pursuant to this condition and maintained thereafter for the duration of the development.

Reason: To secure appropriate connectivity and permeability and to support sustainable modes of local travel and/or access to the countryside, in accordance with Policies SS11, DE1 and TA2 of the Torbay Local Plan.

## **10. Boundary Treatments / Means of Enclosure**

The reserved matters for layout, appearance and landscaping shall include the detailed design of all boundary treatments and means of enclosure plan, which shall include all retaining structures. The scheme shall seek to deliver a cohesive enclosure plan that responds positively to the rural context referenced within the submitted Design and Access Statement.

The approved details shall be implemented prior to the first occupation of the dwelling to which they relate or prior to the first use of public land to which they relate without variance.

Reason: To secure an appropriate form of development in accordance with Policies SS11 and DE1 of the Torbay Local Plan and Policies PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan and advice contained within the NPPF.

### **11. Biodiversity enhancement measures**

The details for reserved matters of layout and landscaping shall include the submission of a biodiversity metric calculation which use the most up-to-date metric and associated guidance documents. The submission shall evidence that all created and retained habitats will be managed appropriately for a minimum of 30 years.

The approved measures shall be implemented in full prior to the first occupation of the development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

### **12. Phasing**

A phasing plan shall be submitted to and approved in writing by the Local Planning Authority as part of the first application for reserved matters approval of layout. The plan shall demonstrate how the development will be implemented in relation to an agreed timetable of works. The development shall then be implemented in accordance with the approved phasing plan.

Reason: To ensure that necessary elements of the scheme are implemented within acceptable parameters and at an appropriate stage, to comply with policies SS2, SS9, Page 116, SS10, NC1 and DE1 of the adopted Torbay Local Plan 2012-2030 and policies PNP1(a), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

### **13. Travel Plan**

Prior to the first occupation of the development a Travel Plan, which seeks to secure a modal shift of 30% of potential users to sustainable modes of travel and include SMART targets and include an annual review mechanism where the development is failing to secure a modal shift of 30%, including measures to discuss with the Local Planning Authority additional measures to achieve the desired target, shall be submitted to and agreed in writing by the Local Planning Authority.

The approved Travel Plan shall thereafter be implemented in full.

Reason: To reduce the impact of the development upon the transport network, in accordance with Policy TA2 of the Torbay Local Plan 2012-2030.

#### **14. Secured by Design**

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable. Specifically, to 'ensure the gates to the rear private gardens are lockable from both sides by means of a key, for example.'

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

#### **15. Construction method statement**

Prior to the commencement of development, 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.
- J) The maintenance of access to Beechdown Park and Beechdown Court

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

#### **16. Construction Environmental Management Plan (CEMP)**

All reserved matters applications for layout shall include a Construction Environmental Management Plan (*CEMP: Biodiversity*), which shall have been prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).

- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **17. Landscape and Ecological Management Plan (LEMP) or equivalent**

All reserved matters applications for layout and/or landscaping shall include a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, which shall be submitted and shall include, but not be limited to, the following.

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

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

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

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **18. Bat Roost**

The reserved matters for layout and external appearance shall include details of the compensatory roosting provision (bat roost building), as indicated within the submitted ecology reports and indicative masterplan.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **19. GHB Corridor Habitat Creation (HRA/AA)**

Prior to the commencement of any other development a traditional Devon hedgebank (3m wide) will be created and planted to the south of the site with native species of broadleaved tree and shrubs. The bank itself will be 1.5m in height, and the native species of tree and shrub will be a minimum of 1m tall when planted, achieving an immediate 2.5m hedgebank which will be managed into the future at 3m in height and 3m in width. A temporary 3m high close bordered fence will be erected to the north of the proposed hedgebank, and this will be removed once the vegetation on the hedgebank has reached 3m. A 5m wide herb-rich field margin buffer will also be created along southern site boundary prior to development.

Full details of the specification of the means of construction of this bank and a detailed planting schedule shall be submitted to and agreed in writing by the Local Planning Authority prior to its construction and development shall take place in accordance with the approved details. Any planting that becomes damaged, diseased or dies within 5 years of planting shall be replaced in accordance with the approved details.

This GHB corridor will be kept under 0.5lux and be a dark corridor to the south of the site. This belt of vegetation will be protected from over grazing by a stockproof fence to the south of the corridor.

The existing 120m species—poor hedgerow at the south of the site shall not be removed until this hedgebank and herb rich field margin associated with the proposed flight line have been planted.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan. This needs to be a pre-commencement condition to ensure impacts of development are mitigated from the very start of development.

## **20. Sensitive Lighting Strategy (HRA/AA)**

The details for reserved matters of layout and external appearance will include the submission of a detailed Lighting Strategy for agreement with the LPA. The strategy will ensure the proposed dark corridor to the south of the site is kept under 0.5lux and will demonstrate how current national and local lighting guidance for bats has been implemented (e.g. using warm coloured lighting). This will include details such as the following: artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with private residence.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **21. Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas**

All reserved matters applications for layout and/or external appearance shall include a Lighting Assessment, including lux contour plan, for both public-realm and domestic lighting in combination with any existing light sources in the locality to demonstrate compliance with the 0.5lux design parameter set out in the Shadow HRA (The Ecology Company, Feb 2020).

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **22. No External Lighting**

No external lighting shall be provided within the site unless it accords with the details agreed by conditions 20 and 21 or is otherwise previously agreed in writing by the Local Planning Authority.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **23. Management of replacement commuting habitat**

All replacement commuting habitat will be annually managed to ensure adequate and effective establishment is taking place and to ensure that species and structural diversity is being maintained so the quality of the habitat is adequate. This work will be undertaken by a dedicated management company to ensure the new commuting habitat / flight line are managed appropriately in perpetuity (note that the management company will also manage the new bat roost required for planning). The future maintenance of the hedge will comprise traditional hedge laying / coppicing techniques, marking and retention of suitable trees to allow them to grow into standards, and suitable hedge trimming techniques to allow the hedgerow to mature and grow upwards to provide more shelter for bats, i.e. no hedge top flailing. This will allow the hedge to grow into a tall, robust hedgerow providing continuous cover and shelter from the development on the northern side. This will also allow the hedge to become thick and bushy and comprise lots of mature hedge trees with overhanging branches. The 5m herb—rich field margin will be managed as a meadow habitat, in order to support a wide range of floristic species which in turn will support a high diversity of insects.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

### **24. Ecological monitoring to provide early warning of threats to bat commuting routes**

All reserved matters applications shall include a monitoring strategy which shall be prepared with the purpose 'provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary'. The strategy will be prepared in accordance with the specifications in BS42020; clause 11.2.3 and shall include the following.

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);
- c) Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bats' commuting routes can be judged;
- d) Methods for data gathering and analysis (to include appropriate bat surveys and light monitoring);
- e) Location of monitoring/sampling points;
- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Contingencies and remedial measures that will be triggered should monitoring detect a change in site conditions;
- i) Review, and where appropriate, publication of results and outcomes.

A report describing the results of 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.

The monitoring strategy will be implemented in accordance with the approved details.

Reason: To secure a satisfactory form of development in accordance with Policies SS2, SS8 and NC1 of the Torbay Local Plan 2012-2030 and Policy PNP1 of the Paignton Neighbourhood Plan.

## **21. Highway Works**

Prior to commencement of development, a S278 Agreement shall be entered into with the Highway Authority to secure the access works and ancillary works to the highway. The agreed works shall be delivered in accordance with the Agreement.

Reason: To ensure highway safety is not impaired, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

This need to be a pre-commencement condition as it relates to works outside of the application site and engagement of third parties.

## **22. Highway Standards**

Construction of the internal roads and footpaths within the development approved pursuant to any reserved matters for layout and appearance shall be in accordance



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

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

### **23. Adoptable Streets**

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

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

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

### **24. Management and Maintenance of Estate Roads**

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

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

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

(f) How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.

(g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.

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

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

(a) Adopted by the highway authority as a highway maintainable at the public expense or

(b) Subject to an agreement with the highway authority under section 38 of the Highways Act 1980 for the adoption of the road; or

(c) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

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

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

## **25. Badger surveys**

Prior to the commencement of any vegetation clearance or site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the LPA.

The development shall proceed in accordance with any approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

## **26. Nesting birds / bats**

The details of reserved matters for layout and external appearance shall include bird nesting/bat roosting boxes in the design of the buildings.

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

The development shall proceed in accordance with any approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

### **27. Landscape Provision and Maintenance**

All planting, seeding or turfing comprised in the approved details of landscaping reserved matters shall be carried out in the first planting and seeding season following the first occupation of the development unless otherwise agreed in writing with the Local Planning Authority within a phasing plan pursuant to Condition 12. Any trees or plants which within a period of 10 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, C4 and DE1 of the adopted Torbay Local Plan 2012-2030 and PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

### **28. Removal of PD – boundary treatments**

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no development of the types describes in Schedule 2, Part 2, Classes A and B including gates, fences, walls or other means of enclosure and means of access shall be erected or constructed between the buildings and the estate roads unless permission is granted by the Local Planning Authority.

Reason: In order to safeguard the character and visual amenities of the locality, in accordance with Policies DE1 of the Torbay Local Plan and PNP1(a), PNP1(c) and PNP24 of the Paignton Neighbourhood Plan.

### **29. Removal of PD – roof extensions and hardstandings**

Notwithstanding the provisions of Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting or further amending that Order), no development of the types described in Schedule 2, Part 1, Classes B, C and F of the Order, including the construction of dormers, roof alterations and provision of hardstandings, shall be carried out on the site, other than that hereby permitted, unless the permission in writing of the Local Planning Authority is obtained.

Reason: To protect the appearance of the area, to prevent the increased risk of flooding elsewhere and in the interests of amenity.

### **Development Plan Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS2 – Future Growth Areas

SS3 - Presumption in favour of sustainable dev  
SS8 - Natural Environment  
SS9 – Green infrastructure  
SS10 – Conservation and the historic environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
SDP3 – Paignton North and Western Area  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1LFS - Applications for new homes\_  
H2LFS - Affordable Housing\_  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ER2 - Water Management  
W1 - Waste management facilities

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

## TORBAY COUNCIL

Application Site Address	3 Keysfield Road, Paignton, TQ4 6EP
Proposal	Reserved Matters to application P/2021/0808 (Demolition and formation of 14 apartments).  Reserved Matters to be discharged: (i) landscaping (to include biodiversity enhancement measures).
Application Number	P/2023/0446.
Applicant	Keysfield Limited.
Agent	AD Architecture.
Date Application Valid	23.05.2023.
Decision Due date	22.08.2023.
Extension of Time Date	N/A.
Recommendation	Approval. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major development
Planning Case Officer	Scott Jones.

### Location Plan



## **Site Details**

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

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

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

## **Description of Development**

This is a Reserved Matters application relating to matters of landscaping in relation to the previously approved 14 residential flats as part of outline planning application P/2021/0808.

The proposed landscaping works include:

- Retained mature trees on boundaries southern and eastern borders of the site.
- Retention/creation of lawn to the north and east of the proposed units.
- Formation of parking spaces as approved with hedging and planting bordering.
- New tree and shrub planting along the northern (rear) border.

The proposed biodiversity enhancement measures submitted with the reserved matters include:

- The retention of existing landscape value trees within the property and the planting of a range of new deciduous and evergreen tree and shrub specimens.
- x7 bat boxes within the new building.
- x6 swift bricks within the new building.

## **Relevant Planning Policy Context**

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

### **Development Plan**

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

- The Paignton Neighbourhood Plan (the "PNP")

#### Material Considerations

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

#### Relevant Planning History

P/2021/0808: Demolition of existing building and formation of 14 apartments. (Approval sought for Access, Appearance, Layout and Scale. Landscaping Reserved)(as revised by plans received 17.11.2022 and 19.12.2022, including revised description). Approved 23.01.2023.

#### Summary of Representations

None.

#### Summary of Consultation Responses

##### **Torbay Council Arboricultural Officer**

Having reviewed the proposed soft landscaping scheme (trees and hedges) the species selection is appropriate for the proposed layout. Additional information regarding the previous requests below has been submitted and is acceptable.

Require additional information on the nursery stock size for the tree planting. Suggest the scheme designers use 8 – 10cm girth nursery stock, which is typical for the local area.

A method statement / specification for tree and hedge establishment (5 years) will also be required.

##### **Devon County Council Ecologist**

Support the landscape scheme and the biodiversity enhancement measures put forward. Content that the scheme would provide a positive outcome for biodiversity when compared with the current site conditions.

#### Key Issues/Material Considerations

#### Planning Officer Assessment

Outline planning permission has been granted for the demolition of existing building and construction of 14 residential flats. Matters of Access, Appearance, Layout and Scale were approved in detail through the outline stage with only matters of Landscaping reserved for future consideration, which are sought within this application. Therefore the only matter to be considered within this application relates to landscaping.

A planning condition on the outline consent required the reserved matters to include biodiversity enhancement measures and hence biodiversity enhancement is also considered below.

## **1. Landscaping and Trees**

In terms of the Development Plan policy expectations Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. Policy PNP1(c) of the Paignton Neighbourhood Plan states that development should strengthen local identity (including by retaining natural features) and include new tree planting.

The NPPF presents similar guidance within Para 130, which includes that development should ensure they are visually attractive, and that includes appropriate and effective landscaping, and Para 131, which states that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change. It furthers that planning decisions should ensure that opportunities are taken to incorporate trees in developments and that existing trees are retained wherever possible.

The landscape proposals retain the significant trees that line the front southern border with Keysfield Road and that line that eastern side boundary, which is in accordance with the outline plans previously submitted. This is a central positive strategy when considering the character and ecological benefits of the mature trees within the urban environment and within the Roundham Conservation Area.

In addition to retaining the mature trees along the front and side border the landscaping proposals proposes trees and shrubs to intermittently line the northern rear border and western side border. In addition, within the space around the proposed building, the space will be largely laid to lawn with areas of herb planting. The transition from soft landscaping towards the rear and sides to the predominantly hard landscaping of the parking towards the front of the building is to be defined by native species hedge planting. The combination of retained trees and the proposed planting is considered to provide an attractive landscape setting for the development and will also present useable outdoor amenity space for future occupiers.

The Council's Tree Officer has been consulted on the application and considers the landscaping scheme satisfactory following the receipt of additional information on the size for the tree planting and detail on the methods for tree and hedge establishment.

The proposed development, for the reasons stated above, is considered acceptable with regards to Policies C4, SS11 and DE1 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

The above conclusion has taken account the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning



authority pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

## **2. Ecology and Biodiversity**

Policy NC1 of the Torbay Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy PNP1(c) of the Paignton Neighbourhood Plan includes guidance to support development safeguards biodiversity and protects features of biodiversity value. The policy also furthers that hedgerow habitat should be provided on at least one border wherever possible and for bat boxes and bird boxes to be included in development.

The NPPF guides that planning decisions should contribute to and enhance the natural and local environment, including by minimising impacts on and providing net gains for biodiversity.

As detailed within the report the outline consent (P/2021/0808) included a condition that required the reserved matters to include details of measures to enhance biodiversity. A Biodiversity Statement is submitted that includes the provision of the retention of existing landscape value trees within the property and the planting of a range of new deciduous and evergreen tree and shrub specimens, the provision of 7 bat boxes within the new building, and the provision of 6 swift bricks within the new building. Locations of the nesting/roosting facilities have been provided on elevation plans.

Devon County Council Ecology Officer has been consulted on the application and considers the biodiversity proposals satisfactory.

The biodiversity enhancement measures are deemed to be in accordance with Policy NC1 of the Torbay Local Plan, PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

### **Local Finance Considerations**

#### **S106:**

Not applicable to these reserved matters.

#### **CIL:**

Not applicable to reserved matters for landscaping. The development is CIL liable though.

### **EIA/HRA**

#### **EIA:**

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

#### **HRA:**

Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a positive impact overall and help with the supply of much needed housing.

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

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

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

### **Proactive Working**

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

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

Overall, the number and range of retained and proposed trees, plants and shrubs would present adequate softening of the built form that would offer a positive and attractive residential environment for future occupiers.

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

It should be noted that the NPPF (Para 38) guides that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It also furthers that decision-makers at every level should seek to approve applications for sustainable development where possible. There are, for the reasons within this report, no substantive reasons to not grant permission for these reserved matters.

## **Officer Recommendation**

Approval:

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

## **Conditions:**

## **Informative(s)**

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

## **Development Plan Relevant Policies**

Relevant Policies

DE1 – Design

SS10 – Conservation and the historic environment

SS11 – Sustainable communities

C4 – Trees hedgerows and natural landscape features

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

PNP1(c) – Design Principles

## TORBAY COUNCIL

Application Site Address	43 Thatcher Avenue Torquay TQ1 2PD
Proposal	Roof alterations from hipped to flat roof, to create first floor extension with first floor balcony to the front, replacement balustrade to the existing terrace and changes to fenestration.
Application Number	P/2023/0390
Applicant	
Agent	Mr Paul Rose - PMR Architecture
Date Application Valid	09.05.2023
Decision Due date	04.07.2023
Extension of Time Date	01.08.2023
Recommendation	Approval
Reason for Referral to Planning Committee	Following the SRM procedure, Councillor Bye would like application to be discussed at Committee
Planning Case Officer	Katie Greer

### Location Plan:



### **Site Details**

The site, 43 Thatcher Avenue, is a detached residential dwelling located along a residential street. The residential dwelling is modest in scale within a large plot and the land slopes downwards to the south towards the coast. To the east and west of the site are two dwellings of similar size and to the south of the site, on the opposing side of Thatcher Avenue, are large dwellings that sit significantly lower than the dwellings to the north.

The dwelling is a double-hipped pitched-roof bungalow with an integrated garage at lower ground floor level fronting the street. To the rear there is a subservient double-gabled rear extension, together with flat-roofed extensions.

The site is located within an existing residential area and is designated as Flood Zone 1. There are no site-specific designations over the land.

### **Description of Development**

The proposal is for roof alterations to remove the existing main roof at the front of the dwelling and replace it with a flat-roofed roof extension, creating habitable space at first floor level. The proposal also includes the provision of a first-floor balcony to the front, and replacement balustrade to the existing ground floor terrace, together with changes to the fenestration.

Through revised plans the proposed first floor roof extension is set in from sides and finished in standing seam metal cladding, a change from render. The roof extension is set in from the sides by 1.21m and will be increasing in height by approximately 1.9m, making the height of the dwelling 8.9m.

The proposed dwelling would resultantly have two-storeys of accommodation together with the existing lower-level integrated parking and would, from the front, present a flat-roofed building form.

### **Relevant Planning Policy Context**

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

#### **Development Plan**

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

#### **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)

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

### **Relevant Planning History**

P/1979/2679: Sun Lounge, patio doors. Approved 30.11.1979

P/2000/1145: Alterations and Extensions Including Sun Terrace, Turning/Parking Area, Workshop/Garden Store, Dining Room, En-Suite Facilities And Double Garage. Approved 09.11.2000

### **Summary of Representations**

The application was publicised through neighbour notification letters.

10 letters of objection have been received.

Concerns include:

- Overlooking
- Over development
- Impact on Local Area
- Not in keeping
- Sets precedent
- Residential Amenity
- Noise
- Loss of light

### **Summary of Consultation Responses**

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

No response received.

### **Planning Officer Assessment**

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

1. Principle of Development
2. Impact on the Character of the Area
3. Impact on Residential Amenity
4. Ecology and Biodiversity
5. Flood Risk and Drainage
6. Highways
7. Sustainability

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

The proposal is for the roof alterations from a pitched to flat roof, to create first floor extension with first floor balcony to the front, replacement balustrade to the existing terrace and changes to fenestration. In terms of the proposal being householder extension/alterations within the built-up area there are no Development Plan policies indicating that the proposal is not acceptable in principle. It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

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

Paragraph 126 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 134 states that 'development that is not well designed should be refused, especially where it fails to reflect local design and government guidance on design'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE5 of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The application proposes the alterations to the roof including the changes from a hip to a flat roof by increasing the ridge by approximately 1.9m. This will consist of an additional first floor accommodation which will include a balcony at the front and replacement balustrades to the existing terrace and changes to fenestration.

The proposals as originally submitted presented concerns in terms of the likely detrimental impact upon the street scene and wider area, where the bulk and uniform materials would present a stark contrast with the overriding urban form and character of the area. The uniformity of side building lines and the materials presenting a two-storey rendered modern 'box-type' dwelling, with no obvious roof element.

Following positive and proactive discussions to seek to overcome planning concerns, in line with guidance contained the NPPF, revised plans were submitted to reduce the upper level (first floor) on the dwelling, bringing it in from each side (1.2m each side), creating a more subservient addition to the dwelling. It was also suggested that the first floor be finished in an entirely different material to the rest of the dwelling to produce, in essence, a roof like feature that would be more sympathetic to the area, reflecting the urban form within existing street scene. The proposal before members is now for a roof element that is set back from the front and in from the sides and finished in a standing seam material to reflect the mid/dark grey of roof tiles/slates in the area.

The existing streetscene is characterised by a mix of contemporary and traditional architecture. Contemporary alterations and wholesale redevelopments are intermittently present throughout the immediate residential roads and there is an evolving character to the area as modernism becomes more and more apparent within this enclave of mid-20<sup>th</sup> century traditional building forms.

Considering the revised form of development, and the mixed architectural form of the area, the proposal is not considered to have an adverse impact on the surrounding area and would sit comfortably between the pitched roof dwelling No.45 and the mixed architectural form of No.41, which presents a pitched and flat-roofed form. Due to the differing housing types and designs throughout the existing streetscene, including modern examples of similar dwellings located along the street, therefore the principle of modern design within Thatcher Avenue is considered acceptable.

The additional height is considered acceptable within the immediate context and would not present undue conflict with the general rhythm and rise and fall of buildings heights following the undulating street levels.

Considering the mixed building forms locally the proposal is considered to respect the existing streetscene in terms of its design, scale and bulk and the modern, flat roof design of the dwelling would not create a dominating or overbearing structure. The formation of the new first floor with balcony to the front is considered to be acceptable in terms of its size, scale and design and would be within the existing footprint of the dwelling. The plot is considered to be large in size, therefore the plot would comfortably accommodate the development without resulting in an overdeveloped or cramped site which would not lead to overdevelopment.

The materials proposed for the scheme are a mixture of vertical timber cladding, render, standing seam metal cladding, roof tiles, glazed glass balustrades and grey UPVc windows. This a mixture of materials that respect the modern and contemporary design of the proposal and would maintain the modern style that the applicant is wanting to achieve.

The changes to the fenestration and balustrading is considered to be in keeping with the modern contemporary design of the dwelling and would have a positive impact on the existing frontage.

Given the siting, scale, and design of the proposal it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality and would be considered to be in accordance with Policies DE1 and DE5 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

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



Policy DE3 of the Local Plan states that development proposals should be designed to provide a good level of amenity for future residents and will be assessed in terms of the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution, provision of useable amenity space, and an adequate internal living space. Policy DE5 of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general.

10 objections have been received by neighbouring properties, with a number of representations from the same person. These include concerns regarding loss of light, privacy/overlooking, over development, impact on Local Area, not in keeping, setting a precedent and noise.

A planning history search shows that a number of recent similar proposals, have been approved within the wider immediate street scenes. The proposal, given the amendment to the first floor is considered to be an acceptable addition to the dwelling, with the first floor balcony being sited within the openness of the public realm of the streetscene and would therefore not overlook into private neighbouring amenity space. Privacy screens are proposed on both sides of the first floor terrace, which will provide some screening into the neighbouring gardens. As previously mentioned given the large nature of the plot and the footprint of the dwelling not being enlarged and the first floor being reduced in sized, it is not considered to negatively or significantly impact neighbouring amenity in terms of loss of light or by being overbearing.

Although the scale and bulk of the development would result in additional bulk to the dwelling, it would not be considered to have a material impact on the loss of light or outlook to neighbours. The distance between the side elevation of the recessed roof element with the side wall of No.41 is 5.2m and the distance between the side elevation of the roof extension with the main side gable end of No.45 is 5.7m. The height of the dwelling is increasing by 1.9m and together with the change to a flat roof form will increase the bulk and mass of the dwelling as experienced by these immediate neighbours, however the impact will not present undue harm on their amenity levels. The adjacent ground floor window facing the development from No.41 is at an oblique angle and serves a lounge at ground floor level and is a secondary window to that room. The distance and oblique angle limits the impact. The upper floor window within No.45 facing the development serves a bedroom and is also a secondary window with the main outlook being to the front. Considering the context both relationships are considered acceptable and would not be unduly impact amenity by loss of light or outlook.

The proposed balustrades on the balconies are all obscurely glazed, and privacy screens are proposed on the side north-eastern and south-western elevations of the second-floor balcony, this will help protect neighbouring privacy and is considered to provide adequate screening. This will also be conditioned as part of the permission so that it is retained for the life of the development. The addition of upper floor windows

would not present any undue impact from overlooking to either properties, or casual overlooking of garden areas, which is somewhat characteristic of suburban living.

The proposal is considered to be in accordance with Policies DE3 and DE5 of the Torbay Local Plan 2012-2030.

#### **4. Impact on Ecology**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Paragraph 174).

The application has been accompanied by an ecological survey report. The report findings stated that there was no evidence of bats on site and no further surveys are required. Should planning permission be granted the recommendations of the ecological report should be employed through a planning condition.

The proposal therefore complies with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan.

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

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

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment. In this instance the development would not impact the existing surface water management system and would not increase the risk of flooding, as it sits within the existing footprint.

The proposal is therefore considered to be in accordance with Policy ER1 of the Torbay Local Plan 2012-2030.

#### **6. Highways**

The proposed development is not impacting the parking provision on site; therefore, the proposal is not considered to have any impact on Highway safety.

#### **7. Sustainability**

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

In order to address the above it is recommended that the applicant submit a statement on how this development meets the policy requirement for a low carbon development, which will be secured by a [laconditioned onto the permission.

The development is, for the reasons above and subject to the detailed condition, considered suitable for approval, in accordance with Policies SS14 and ES1 of the Local Plan.

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

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

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

#### **Local Finance Considerations**

S106: Not applicable.

CIL: Not applicable.

#### **EIA/HRA**

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

HRA: Not applicable.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is concluded that the proposal in terms of addressing the Development Plan would create a positive impact overall and would be in keeping with the existing streetscene, which would not have an adverse impact on the surrounding area in terms of its size, scale, design and impact on neighbouring amenity. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

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

The proposal is acceptable in principle and would not result in unacceptable harm to the character of the area or local amenity. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions stated below.

### **Conditions**

#### **1. Matching materials**

The development hereby approved shall be carried out using external materials as specified on the plans 22.69\_PL\_200A and shall be retained as such thereafter.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.

#### **2. Materials**

Prior to the installation of the cladding to the external walls at first floor level of the development, details and specifications of the cladding to be used in the construction, should be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details and shall be retained thereafter.

Reason: In the interests of the appearance of the development and the surrounding area in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.

#### **3. Privacy Screens**

Prior to the approved terrace at first floor level being brought into use, the 1.8m high obscure glazed privacy screen (to a minimum of Pilkington Level 4 or similar standard) shall be erected on the balcony's north western and

southwestern side, in accordance with the approved details, and shall be maintained and retained as such for the lifetime of the development. The height of the privacy screen is measured from the finished floor level of the balcony.

Reason: In the interests of adjoining amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.

#### **4. Ecological Recommendations**

The development hereby approved shall be carried out in accordance with the mitigation measures, recommendations and biodiversity net gain measures set out in the approved ecology report P-2023-0390-3, received 05.05.2023.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan.

#### **5. Sustainability**

Prior to the commencement of the development energy efficiency measures, to minimise carbon production during the life of the development, shall be submitted and approved in writing by the Local Planning Authority. The development shall be carried out only in accordance with the approved details and shall be retained thereafter.

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

### **Informative(s)**

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

### **Relevant Policies**

DE1 – Design  
DE3 – Development Amenity  
DE5 – Domestic Extensions  
ER1 – Flood Risk  
NC1 – Biodiversity and Geodiversity  
TH8 – Established Architecture