



Friday, 31 August 2018

## **DEVELOPMENT MANAGEMENT COMMITTEE**

A meeting of **Development Management Committee** will be held on

**Monday, 10 September 2018**

commencing at **2.00 pm**

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

### **Members of the Committee**

Councillor Kingscote (Chairman)

Councillor Barnby

Councillor King

Councillor Lewis (B)

Councillor Morey

Councillor Pentney

Councillor Stockman

Councillor Tolchard

Councillor Winfield

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

**Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR**  
**01803 207087**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk)

[www.torbay.gov.uk](http://www.torbay.gov.uk)

# DEVELOPMENT MANAGEMENT COMMITTEE AGENDA

1. **Apologies for absence**  
To receive apologies for absence, including notifications of any changes to the membership of the Committee.
2. **Minutes** (Pages 4 - 6)  
To confirm as a correct record the Minutes of the meeting of this Committee held on 13 August 2018.
3. **Declarations of Interests**
  - (a) To receive declarations of non pecuniary interests in respect of items on this agenda  
**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.
  - (b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda  
**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.  
  
(**Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)
4. **Urgent Items**  
To consider any other items that the Chairman decides are urgent.
5. **Villa Coolins, Ilsham, Marine Drive, Torquay (P/2018/0231)** (Pages 7 - 22)  
Demolition of existing dwelling and formation of two semi-detached dwellings with associated new access and driveway.
6. **Torre House, Falkland Road, Torquay (P/2018/0654)** (Pages 23 - 34)  
Change of use from C2 to Sui Generis (Student Accommodation).
7. **Foxhole Community Association, Belfield Road, Paignton (P2018/0684)** (Pages 35 - 40)  
Installation of 10m lighting column for use by Devon Air Ambulance.

8. **Land Off Luscombe Road, Paignton (P/2018/0522)** (Pages 41 - 57)  
Reserved matters application relating to outline application P/2014/0938 (formation of up to 68 dwellings with associated road and landscaping).
9. **Public speaking**  
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
10. **Site visits**  
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 5 September 2018. Site visits will then take place prior to the meeting of the Committee at a time to be notified.



## Minutes of the Development Management Committee

13 August 2018

-: Present :-

Councillors Barnby, Bye, Ellery, King, Kingscote, Morey, Pentney, Stubley and Tolchard

(Also in attendance: Councillor O'Dwyer)

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### 1. Election of Chairman

Councillor Kingscote was elected Chairman for the remainder of the 2018/19 Municipal Year.

Councillor Kingscote in the Chair.

### 2. Apologies for absence

It was reported that, in accordance with the wishes of the Conservative Group and Independent Group, the membership of the Committee had been amended for this meeting by including Councillors Stubley and Ellery instead of Councillors Hill and Stockman (respectively).

### 3. Appointment of Vice-Chairman

Councillor Morey was appointed Vice-Chairman for the remainder of the 2018/19 Municipal Year.

### 4. Minutes

The Minutes of the meeting of the Development Management Committee held on 9 April 2018 were confirmed as a correct record and signed by the Chairman.

### 5. Oxen Cove Car Park, Brixham (P/2018/0219)

The Committee considered an application for the construction of an 8m wide, 60m long jetty from Oxen Cove Car Park.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Website. At the meeting Margaret Orme and Mark Taylor addressed the Committee against the application and Adam Parnell addressed the Committee in support of the application.

Resolved:

Approval delegated to the Executive Head of Assets and Business Services, subject to the receipt and satisfactory resolution of Natural England's comments regarding the impact of the proposed development on the features of the Marine Conservation Zone and with the conditions and informatives set out in the submitted report.

**6. Brampton Court Hotel, St Lukes Road South, Torquay (P/2018/0492)**

The Committee considered an application for retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Website. At the meeting Anna Ireland and Alan Denby addressed the Committee in support of the application.

Resolved:

Approved with the conditions set out in the submitted report and two additional conditions to secure bicycle storage and a travel plan.

**7. Maycliffe Hotel, St Lukes Road North, Torquay (P/2018/0493)**

The Committee considered an application for retrospective permission for the change of use of the building from a hotel to a student residence (sui generis use).

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Website. At the meeting Anna Ireland and Alan Denby addressed the Committee in support of the application.

Resolved:

Approved with the conditions set out in the submitted report and two additional conditions to secure bicycle storage and a travel plan.

**8. Ocean Court, Vane Hill Road, Torquay (P/2018/0531)**

The Committee considered an application for replacement of pitched roof to provide living space and roof terrace.

Prior to the meeting, Members of the Development Management Committee undertook a site visit.

Resolved:

Approved.

**9. Park Railings, Victoria Park, Paignton (P/2018/0117)**

The Committee considered an application for advertisement consent for the installation of five banner advertisements on the railings at the Torquay Road frontage of Victoria Park, Paignton.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Website.

Resolved:

Approved with the informative set out in the submitted report.

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Chairman

# Agenda Item 5

**Application Number**

P/2018/0231

**Site Address**

Villa Coolins  
Ilsham Marine Drive  
Torquay  
TQ1 2HT

**Case Officer**

Verity Clark

**Ward**

Wellswood

**Description**

Demolition of dwelling; formation of two semi-detached dwellings and new access.

**Executive Summary/Key Outcomes**

The application site is a detached dwelling that is accessed from Thatcher Avenue, Torquay. The proposal seeks to demolish the existing property and subdivide the plot to form two dwellings with an associated new access and driveway.

The principle of new residential development is accepted and the proposal is considered to be of a suitable size, scale, massing and visual appearance for the plot within the context of the streetscene and surrounding locality. The proposal will provide an acceptable standard of residential accommodation for both proposed dwellings and is not considered to impact on neighbour amenity, subject to the use of planning conditions. The proposal is considered to be acceptable in terms of highways impact, whilst issues surrounding drainage, trees and ecology can be agreed by way of planning conditions.

The application has been referred to Development Management Committee due to the number of objections that have been received.

**Recommendation**

Conditional approval subject the final drafting of conditions to be delegated to Executive Head of Assets and Business Services.

**Statutory Determination Period**

8 weeks. The determination date was the 9th May, 2017. The application has exceeded this date to allow the agent to provide revised plans and information in line with officer comments.

## **Site Details**

The site, Villa Coolins, Ilsham Marine Drive, Torquay, is a detached residential property located on the eastern side of Thatcher Avenue, north of the junction with Ilsham Marine Drive. The site slopes down towards the western and southern edges of the site and is bounded by two boundary walls and vegetation. The site sits within an undesignated area of Torquay, but is located within 250m of the Hope's Nose to Walls Hill Site of Special Scientific Interest.

## **Detailed Proposals**

The proposal seeks to demolish the existing dwelling and sub-divide the plot to form two detached, 4 bedroom dwellings. Plot 1 would have up to four storeys, and Plot 2 up to three storeys, reflecting the ground levels in each case. Plot 1 would be served by the existing driveway access whilst Plot 2 would be served by a new driveway with access from Thatcher Avenue.

## **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")

### Material Considerations

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

## **Summary Of Consultation Responses**

Highways: Highways would only accept a maximum gradient of 1 in 8 on the driveway before entering or exiting the public Highway. Please inform Building Control if any retaining walls are to be constructed over 1m high adjacent to the Highway. To prevent run off water entering the Highway, a drain or dished channel to a soakaway before entering the Highway would be required. If an Application is granted, a vehicle crossover would be required under licence of the Highway Authority, constructed by a contractor with the correct accreditation. Loose gravel must not be taken on to the Highway.



Arboricultural Officer: Revised arboricultural information is suitable for a recommendation of approval subject to the addition of conditions.

Ecology: We suggest that there is no reason for refusal of this planning application on ecological grounds providing the proposals are implemented using the Conservation Action Plan within Appendix 7 of the Ecological Survey Report. We would recommend that these measures be secured via appropriately worded planning conditions when this application is determined.

### **Summary Of Representations**

Publication type: Neighbour notification letters/Site notice

28 objections have been received. Issues raised:

- Trees
- Environmental impacts
- Wildlife
- Overdevelopment
- Impact on views
- Construction impacts
- Property values
- Impact on area
- Impact on economy
- Privacy and overlooking
- Impact on housing stock
- Overbearing
- Size and scale
- Design
- Height
- Impact on streetscene and character
- Address location
- Description of proposal
- Drainage
- Light
- Precedent
- Traffic and access
- Highways safety
- Contrary to neighbourhood plan
- Land stability
- Ecology and tree reports out of date

### **Relevant Planning History**

P/2017/0136 Demolition of dwelling; formation of two semi-detached dwellings. Application withdrawn.

P/2011/1165 Extend time limit - demolition of dwelling; formation of 2 dwellings with vehicular/pedestrian access- application P/2008/1605/PA. Approved 08/05/12

P/2008/1605 Demolition of dwelling; formation of 2 dwellings with vehicular/pedestrian access (Amended by plans received 04/03/09). Approved 24/02/09

P/1999/1962 Erection Of Dwelling With Integral Garage, And New Vehicular Access And Driveway (As Revised By Plans Received 2.5.00, And Eltters Dated 13.4.00 And 27/4/00). Approved 09/05/00

P/1998/0972 Erection Of Dwelling (In Outline). Refused 28/07/98

P/1997/1305 Erection Of Dwelling (In Outline). Refused 09/12/97

P/1990/1817 New Roof And Provision Of Dormer Window (As Revised By Plans Dated 31St October 1990). Approved 27/11/90

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

The key issues to consider in relation to this application are:

1. Principle of development
2. Impact on the character and appearance of the streetscene
3. Impact upon the amenity of neighbouring properties
4. Quality of residential accommodation
5. Drainage
6. Transport Issues
7. Trees and Ecology

#### **1. Principle of development**

Policy H1 of the Torbay Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed.

The site is located within an established residential area and is considered to be a sustainable location for such development being in relatively close proximity to services and public transport routes. The proposal is considered to be acceptable in principle.

#### **2. Impact on the character and appearance of the streetscene**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 Design of

the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

Planning permission was granted in 2009 under P/2008/1605 for two replacement dwellings which was subsequently renewed in 2011. This detailed a scheme with a significant level of excavation which presented two semi-detached dwellings which, although large, appeared proportionate in size whilst appearing as two distinct properties with a distinctive stepped design. A further application was submitted in 2017 which did not seek the same level of excavation and employed the use of a number of retaining wall structures. The height of the dwellings, although stepped gave the impression of a sprawling building which appeared more as a large block than two distinct semi-detached properties. The garage structures proposed also considerably added to the bulk of the buildings as did the lower level wings to the main blocks. The use of the retaining walls appeared overly dominant and added further hard edges to the site, again increasing the perceived bulk. The proposed height of the building also exceeded the height of the original dwelling and significantly exceeded the previous approval. This application was subsequently withdrawn. The current application follows on from this and attempts to address the concerns raised with the preceding scheme.

The proposal seeks to significantly excavate the site, similar to what was approved in 2009 and 2011 and form a new access from Thatcher Avenue. The plot will be subdivided after the demolition of the existing dwelling and two detached dwellings will be formed.

There is a somewhat mixed local character and pattern of development within the locality, although it is generally characterised by detached and semi-detached houses within spacious plots. A survey demonstrates that this area primarily consists of dwellings set within large plots with a characteristic solid to void ratio which allows for a large level of outside space around the dwellings, creating a spacious, landscape-dominant appearance. There are however numerous examples in the area where plots have been subdivided to form two dwellings and the character of the properties in the area varies from more traditional pitched roofs to more modern 'marine style' architecture.

The proposed dwellings are considered to appear suitably spaced within the plots with a gap of approximately 2.8m between the plots and approximately 11m from Plot 1's closest point to the street. When considering this within the context of the streetscene the adjacent property 'Sunward House' sits in closer proximity to the streetscene than the existing dwelling as does 'Thatcher Point'. Plot 1, which will sit closest to the streetscene, is considered to roughly follow the building line of the existing properties, whilst maintaining a primarily vegetated gap from the road. The relationship of the proposed siting of the new dwellings with the streetscene is therefore considered to be acceptable.

In terms of the footprint of the dwellings within the plot the proposal will result in additional built form within the plot, however an adequate area of outside space is

retained for both plots in line with other dwellings in the locality. The overall footprint is therefore considered to be consistent with the urban grain of the area and without detriment to the character and appearance of the locality.

The general scale of development is considered commensurate with the locality when considering the mix of dwellings in the area. Within close proximity are examples of two and three storey dwellings. It is considered that there is scope for three-four storey dwellings within this area, considering local ground levels and providing the size, scale and massing is carefully considered. As the site is steeply sloping and the typography of the area results in the site being visible from a number of vantage points it is considered important that the height of the proposed dwellings does not significantly exceed the dwelling in situ. This is to ensure a clear stepped appearance is retained with the properties north of the site remaining of greater height. The proposed scheme utilises excavation to maintain the ridge height of the existing dwelling. The overall height of the proposed development is therefore considered to be acceptable and without detriment to the character and appearance of the area. The design and visual appearance of the proposed dwellings appears somewhat similar to the proposal approved in 2009 and 2011. The footprint of the proposed dwellings will be larger however it is considered acceptable due to the plot size, and as an adequate level of space will be provided around both dwellings.

In terms of design and massing Plot 1 will appear as a three storey dwelling with undercroft parking area when viewed from the streetscene of Thatcher Avenue with Plot 2 siting behind and appearing more as a two-three storey dwelling. In considering the design regard must be given to the surrounding streetscene. Marine House located on the opposite side of Thatcher Avenue presents a similar visual appearance with its three stories and similar massing and design. It is considered that the proposed dwellings would have a similar visual appearance although the setback location within the plot would limit the dominance and potential overbearing impact on the streetscene in comparison to Marine House. The flat roof design and modernist form to the elevations, which features clean render, areas of cladding and large expanses of glazing, is aligned with the regeneration genre that is becoming favoured in the area and noticeable in pockets throughout Whidborne Avenue, Thatcher Avenue and Ilsham Marine Drive. The design of Plot 1 also includes areas of balustrading on the South elevation which helps to create more of a stepped and less dominant appearance when viewed from Thatcher Avenue. The design has also been modified during the course of the application to limit the large render dividing walls. Obscure glazed screens are now proposed to provide privacy between the units and help to appear more lightweight in nature. The design and massing is therefore considered to be acceptable.

As a result the size, scale, massing and visual appearance is considered to be acceptable and without detriment to the character and appearance of the locality or streetscene in accordance with the NPPF and Local Plan Policy DE1 of the

Torbay Local Plan 2012-2030.

### 3. Quality of residential accommodation

Policy DE3 of the Torbay Local Plan 2012 - 2030 which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. Provision of useable amenity space, including gardens and outdoor amenity area should be provided with a guidance of 55m<sup>2</sup> for new houses. Internal floor standards are set out from the DCLG technical housing standards document. This states the minimum internal floor space which should be provided and gives guidance on the minimum floor area. The minimum internal floor spaces set out by this guidance and reflected in Policy DE3 shows that a minimum floor space of 103m<sup>2</sup> is required for a 4 bedroom dwelling. The proposed floor areas and outside amenity space is above these standards and it is therefore considered that an adequate standard of accommodation for the proposed dwellings are provided.

### 4. Amenity impact

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

In terms of impact on the neighbouring properties, the proposal is considered to have an acceptable impact. The north elevation of Plot 1 will sit adjacent to 'Sunward House'. Site sections B-B demonstrate that due to the topography of the land which slopes up to the north, the northern elevation of this dwelling would be set at a level which will not allow for views into the neighbouring property by windows at first floor level. Plot 2 would include a window in the northern elevation at first floor level however due to the separation distances from Plot 1 and 22 Thatcher Avenue and as the levels slope up to the north, it is considered that an acceptable relationship is retained. Thatcher Point to the south is set into the ground resulting in minimal windows in the northern elevation and with the majority of the outside amenity space set to the front and side of the property. The relationship between the proposed dwellings and this property is considered to be acceptable and without detriment to amenity or privacy particularly when considering the existing visibility of this property from the streetscene and the number of windows present on the southern elevation of the existing dwelling.

In respect of the impact to 'Sunset' and 'Sunrise' to the east of the site, Plot 1 is not considered to impact on the amenity of these properties due to the separation distance and due to the siting of Plot 2. Section plan A-A demonstrates that the lower ground floor and ground-floor level windows on the eastern side elevation will not impact on these properties due to site levels and existing boundary screening. The proposal includes a window serving a bathroom at first floor level on the side elevation. It is considered necessary to add a condition requiring that this side window is obscure glazed to ensure an acceptable relationship is retained. The proposal also seeks the addition of a sun terrace at first floor level. It is considered necessary to require the balustrading on the east side elevation to

be obscure glazed and a minimum of 1.7m high via condition to ensure an acceptable relationship with the adjacent properties is retained due to the small separation distances and likelihood that overlooking could be achieved.

As such with the addition of conditions the proposal is considered to be acceptable in terms of impact on neighbour amenity and therefore accords with Policy DE3 in the Torbay Local Plan.

#### 5. Drainage

The applicant has indicated that surface water from this development would be discharged to the combined sewer as the ground conditions are unsuitable for soakaways. To use this method the applicant must demonstrate that they have investigated a sustainable drainage system and provide details of why this is not feasible for the development site. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the surface water sewer or drain must be limited to greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. It should be noted that where the greenfield run-off rate for the site is below 1.5l/sec, a discharge rate of 1.5l/sec will be accepted. The applicant must submit their design to demonstrate that their surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to their development for the critical 1 in 100 year storm event plus a 30% allowance for climate change.

As such, the proposal would comply with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 with the addition of a planning condition.

#### 6. Transport issues

Policy TA3 of the Torbay Local Plan states that new dwellings should be served by two car parking spaces. The proposed dwellings provide adequate off street parking provision and would therefore comply with Policy TA3 of the Torbay Local Plan.

In line with the Highways Engineer's comments the gradient of the driveway serving Plot 2 has been modified to provide a gradient of 1 in 8. The new access serving Plot 1 is considered to be acceptable in terms of highway safety. As such the Highways Engineer has not raised an objection to the proposal and the development is considered to accord with Policies TA2 and TA3 of the Torbay Local Plan. Conditions are recommended to secure a scheme of boundary treatment to ensure the walls at the entrances to the site do not exceed 1m in height. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway.

#### 7. Trees and Ecology

The site contains a protected Chestnut tree, which is to be retained. The site also

contains other specimens. The applicant has submitted tree survey and impact assessment information, which has been considered by the the Council's Natural Environment Service. No objections are raised in relation to the proposal's arboricultural impact, subject to the use of conditions to ensure adequate protection for the retained tree.

There is scope for new tree planting which will also mitigate for the past tree loss and also help screen the visual appearance from the street scene. In particular the area on the western side of the site between the new access. This area is seen as key for new tree establishment with space to mature with minimal conflict. The new tree should be a pine tree which links to the character of the existing visual landscape and coastal setting.

The scheme is therefore considered to be suitable for approval on arboricultural merit subject to the addition of conditions for tree protection and to secure a landscape planting plan. The proposal is therefore considered to accord with Policy C4 of the Torbay Local Plan.

It is also considered that the landscaping scheme, retention of the Horse Chestnut and the introduction of a new pine tree on the west side of the plot will help to screen and assimilate the new development into the locality and streetscene in accordance with Policy DE1.

The application has been accompanied by an Ecological Survey Report including a phase 2 survey for bats and reptiles. The written assessment concluded that:

- 1) There was no evidence of bird species listed on schedule 1 of the Wildlife and Countryside Act (1981) within the site. This site is also considered unlikely to support a bird assemblage of more than site level importance. No specific surveys for bird species are recommended.
- 2) No badger setts or other signs of badgers was noted during the survey. However efforts to avoid harm to badgers crossing the site during construction works are provided in the Conservation Action Statement.
- 3) Reptile refugia surveys identified slow worms within the site. It is recommended that a strategy to protect reptiles is implemented prior to commencement of works. The strategy will include the translocation of reptiles from the footprint of the construction area to a designated receptor site.
- 4) No impacts on rare or protected plant species are anticipated.
- 5) If common toads are found during the reptile translocation, they should be moved to an area of undisturbed habitat off-site.
- 6) If a hedgehog is encountered it should be allowed to disperse of its own accord.
- 7) Dusk emergence and dawn re-entry surveys were undertaken where bats were recorded. The demolition of the dwelling will result in the destruction of a bat roost. A European Protected Species Licence will be required from

- Natural England to undertake the proposed works.
- 8) There are potential features on the dwelling that have potential to support nesting birds. Efforts to avoid harm to nesting birds are provided in the Conservation Action Statement. No specific surveys for bird species are recommended.

Consultation from the Council's External Ecologist has confirmed that no Habitats Regulations Assessment (HRA) is considered to be required given the location and type of application in relation to European sites. The site is within a residential area in Torquay and the proposals will not result in any changes other than within the footprint of the land holding itself. The applicants have been informed that the proposed works will require a European Protected Species Licence from Natural England to carry out the works. The Ecological Survey Report includes a Conservation Action Statement in Appendix 7 and includes a number of measures to mitigate for any potential effects on bats, reptiles and breeding birds and a number of enhancement measures. It is considered that there is no reason for refusal of this planning application on ecological grounds provided the proposals are implemented using the Conservation Action Plan within Appendix 7 of the Ecological Survey Report. These measures will be secured via a planning condition.

In terms of its impact on ecology, the proposal is therefore acceptable with the addition of a condition. The proposal is therefore considered to be in accordance with Policy NC1 of the Torbay Local Plan.

### **Neighbourhood Plan**

The Torquay Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application

There are no policies in the emerging Torquay Neighbourhood Plan that are material to this planning application.

### **Statement of Pro-active Working**

The Council has sought to work positively and creatively with the applicant through discussions and through open dialogue including requests for revised plans.

### **S106/CIL -**

Community Infrastructure Levy:

The rate for CIL Charging Zone 3 is applicable. This is charged at £70 per square



metre. The submitted CIL Form has indicated that the existing floorspace to be demolished is 254 square metres and it has been in lawful use for 6 continuous months of the 36 previous months, whilst the proposed floor space of the new dwellings is 896.28 square meters. An informative can be used to draw the developer's attention to their obligations under the CIL Regulations.

### **Human Rights and Equality 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.

### **Conclusions**

The proposal is considered acceptable, having regard to Policies DE1, DE3, TA2, TA3, C4, NC1, ER1 and ER2 of the Torbay Local Plan, and all other material considerations.

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

01. No development shall take place until a European Protection Species (ESP) license, if required, has been obtained, including the appointment of an ESP License holder or accredited agent to manage the implementation of ecological mitigation strategy through to the completion of the development.

Reason: In the interest of protecting wildlife in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

02. No development shall take place until a method statement for the construction of the development hereby approved has been submitted to and approved by the Local Planning Authority. The statement shall provide details of the management of material deliveries and where they will be stored; measures for minimising noise and preventing dust-drift; the times of construction on the site; and the management of parking provision for contractors working on the site. The development shall be carried out in accordance with the approved details.

Reason: This information is required prior to the commencement of the development as it will confirm how the construction process will be managed in the interests of highway safety and local amenity in accordance with policies TA1, TA2 and DE3 of the Torbay Local Plan 2012-2030.

03. No development shall take place until a detailed arboricultural method statement has been submitted to and approved in writing by the Local Planning Authority. The method statement shall detail any proposed ground works and improvements within the vicinity of tree T1 and improvement of the rooting area for tree T1 including the removal of stone and concrete and any soil amelioration methods. All works shall be carried out in accordance with the approved details.

Reason: To protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Torbay Local Plan 2012-2030. These details are required prior to commencement in order to ensure the natural environment is protected during the development period.

04. Prior to the commencement of the development hereby approved tree protection measures shall be installed in accordance with the approved Tree Protection Plan and Arboricultural Impact Assessment (references '04738 (Tree protection plan)' and '04738 AIA 6.6.18'). All works shall be carried out in accordance with these approved documents and the protection measures shall be implemented at all times during the course of the construction works.

Reason: In accordance with the submitted details and to protect trees in the interests of visual amenity in accordance with Policy DE1 and C4 of the Torbay Local Plan 2012-2030. These works are required prior to commencement in order to ensure the natural environment is protected during the development period.

05. Notwithstanding the submitted flood risk assessment, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change. If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement of the development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. On site all surface water shall be safely managed up to the

"1 in 100 year critical rainfall event plus 30% allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream. The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and paragraph 103 of the NPPF. These details are required pre-commencement as specified as Torbay has been designated as a Critical Drainage Area and to ensure that a surface water drainage system is designed appropriately in light of this designation.

06. Prior to commencement of any works above damp proof course level on the new dwellings, samples of all the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the streetscene in accordance with policy DE1 of the Torbay Local Plan 2012-2030.

07. No development shall take place until details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within six months of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of biodiversity and to secure a landscape scheme that will complement the development in the interests of visual amenity in accordance with policies NC1 and C4 of the Torbay Local Plan 2012-2030.

08. The development shall proceed fully in accordance with the Conservation Action Statement detailed on pages 41-45 of the Ecological Survey Report (plan reference 7604 ECAS received 6th March 2018) hereby approved.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Torbay Local Plan.

09. Prior to the first use or occupation of the dwellings hereby approved the parking areas and garages shown on the approved plans ('7604-04 Version C-(Site plan) and '7604-01 Version E') shall be provided and laid out in accordance with the plans. Thereafter the spaces shall be kept permanently available for the purposes of parking for the residents of the dwellings.

Reason: In order to provide adequate parking provision, in accordance with Policy TA3 of the Torbay Local Plan 2012 - 2030.

10. Before the first use of the Plot 2 hereby approved the first floor window serving a bathroom on the East elevation shall be fitted with obscured glazing to at least Pilkington Level 3 or an equivalent standard. The window shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties in accordance with policies DE3 of the Torbay Local Plan 2012-2030.

11. Before the first use of the sun terrace serving Plot 2 hereby permitted, 1.7m high obscure glazed privacy screens to at least Pilkington Level 3 or an equivalent standard shall be erected on the eastern elevation and shall thereafter be permanently retained.

Reason: To protect residential amenity and the privacy of neighbouring properties in accordance with policies DE3 of the Torbay Local Plan 2012-2030.

12. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason:

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

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

Reason:

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

14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to either the proposed or existing dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason:

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

### **Informative(s)**

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. Community Infrastructure Levy (CIL)

This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough.

#### CIL next steps required under the CIL Regulations 2010 (as amended):

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development.

The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start – a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice.

The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure.

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

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

### **Relevant Policies**

DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ER2 - Water Management  
C4 - Trees, hedgerows and natural landscape  
NC1LFS - Biodiversity and Geodiversity\_  
TA2 - Development access  
TA3 - Parking requirements

**Application Number**

P/2018/0654

**Site Address**

Torre House  
Falkland Road  
Torquay  
TQ2 5JR

**Case Officer**

Mr Robert Pierce

**Ward**

Tormohun

**Description**

Change of use from C2 to Sui Generis (Student Accommodation).

**Executive Summary/Key Outcomes**

The application seeks permission for the change of use of the building from a former Nursing Home to a student residence for students from Education First International Academy (EF). Whilst it provides economic benefits to the local economy, a number of concerns have been raised, particularly with regards to the impact of the development on amenity. It is recommended that subject to the submission of a robust management plan, planning permission should be granted for a temporary two-year period to ensure that the premises are suitably managed and that the permission should be a personal permission to EF.

**Recommendation**

Conditional approval (conditions at end of report).

**Reason for Referral to Development Management Committee**

Due to the number of objections received, the application has been referred to the Development Management Committee for determination.

**Statutory Determination Period**

The determination date was 17th August and an extension of time has been agreed.

**Site Details**

Torre House is at the southern end of a driveway leading off the lower end of Falkland Road. It is part of a development of four Victorian villas in the form of two semi-detached pairs (Renowell Court and the Abbey Court Hotel). Torre House is the smaller of the blocks, comprising a basement, two floors above with gardens to the side and rear. It is located in the Belgravia Conservation Area and has been identified in the Conservation Area Character Appraisal as a key building which forms part of a group of architectural importance or which makes a significant contribution to the townscape. Until recently the property was in use as a nursing home for the elderly (Use Class C2).

There is car parking to the front of the building for 5 cars and 1 motorcycle. The character of the surrounding area is of residential apartments, hotels and guest houses.

### **Detailed Proposals**

The application seeks approval for the change of use of the building from a former nursing home (Use Class C2) to a student residence (Sui Generis).

The submitted plans indicate that 23 bedrooms are to be provided over the three main floor levels. Communal facilities will comprise a kitchen/dining room with patio doors leading out onto a large rear private garden. There are also two communal lounges, a laundry and house parent accommodation (two house parents working on a rota basis). Other staff will include one house keeper, two chefs (one part time) and two part time kitchen porters and one part time general assistant.

In any year a maximum of 42 International Academy students would arrive at the residence. Students would benefit from a self-service breakfast and would attend the EF School on Castle Road from 8.30am to 4.00pm. The students would return at 4.30pm and dinner would be served between 5.15pm and 6.45pm. All students are in bed by 11pm weekdays and 11.30pm at weekends.

The Council is aware that new uPVC windows have recently been installed and a fence erected at the front of the property. These elements do not form part of this planning application.

### **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")

#### Material Considerations

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

### **Summary Of Consultation Responses**



Senior Environmental Health Officer:

Whilst I can understand residents' concerns about the potential noise created by a student residence, the proposed use is not intrinsically noisy.

If run in a responsible fashion, I see no reason for anyone to be unreasonably affected by noise. If issues with noise from students were to arise, effective disciplinary procedures against offending students would no doubt be sufficient to resolve neighbour's concerns. Should the issues not be dealt with and the matter not be resolved in a timely fashion, the Council can utilise its powers in the Statutory Nuisance regime to resolve the situation.

However, in the light of local concerns, and in order to preserve residential amenity, I recommend a condition be placed on the consent requiring the development of a noise management plan and that the details of the plan are to be approved by the local planning authority. I would also recommend that a review mechanism be put in place so that should it be required the plan can be modified in consultation with the Council.

The plan would include:-

- a code of conduct for students whilst on site
- a proposed scheme of monitoring
- a scheme of sanctions should students fail to comply with the code.
- A reporting scheme so residents can express their concerns
- A review mechanism to address emerging concerns.

Conservation Officer: It is acknowledged that UPVC sliding sash windows have been installed contrary to the requirements of a previous approval (P/2016/0882) requiring timber sliding sash windows and also the removal of modern flat roofed extensions to the rear as conditions relating to the conversion to flats. Also the wooden panelled fencing to the front of the building is unacceptable. Paragraph 130 of the NPPF applies. The new windows and fence are considered to be unacceptable and the extensions at the rear of the property should be removed to make this proposal acceptable.

Police Designing out Crime Officer: The Police Designing out Crime Officer provided the following comments:

1. It is noted in the planning statement how the premises and students are currently supervised and managed but there should be a separate and detailed management (and maintenance) plan drawn up and agreed upon, which should also include the external areas. Residents of multi occupancy premises generally only have an interest and regard for their own private space (i.e. their room), as such other areas can become problematic due to a lack of supervision, ownership and responsibility. This can easily escalate creating conflict and unacceptable behaviour and noise and nuisance issues for nearby residents, therefore the

premises must be robustly managed and maintained on a regular basis. This will also help in identifying any problem areas which can then be dealt with at an early stage.

2. The main shared entrance door to the building should be of a design that has been tested and certificated to an acceptable security standard e.g. PAS 24 2016. The door should have access control and a visitor door entry system to prevent unauthorised access. The door should be self-closing and locking to prevent from being left open.

3. Other external shared access doors must also be self-closing and locking with a thumb turn lock on the inside. This will ensure the door is secure at all times and egress can be gained in the event of an emergency without the need for a key

4. All ground floor and easily accessible windows should also be to a design that has been tested to an acceptable security standard such as PAS 24 2016. Ground floor and easily accessible windows should have restrictors fitted.

5. Each student's private room must have a 'fit for purpose' secure door and locking system - ideally it should be tested and certificated to PAS 24 2016 to provide a safe and secure sanctuary for the student.

6. Ideally there should be a house parent bedroom on each floor rather than all be sited together in one area of the building.

7. A monitored CCTV system should be considered for shared areas and be capable of capturing clear evidential images

8. Bicycle storage should be secure and it should not be possible to see bikes from the outside of the store. The store must be in view of active areas and be well lit to assist students during hours of darkness. There should be a thumb turn lock on the inner face to prevent users from being accidentally locked in.

9. The curfew for students is noted but should be written into the management plan

10. There should be clear rule setting throughout the building so that students are in no doubt as to what is expected of them in terms of behaviour for both inside and outside of the premises.

Strategic Transport: No comments received.

### **Summary Of Representations**

30 letters of objection and 34 letters of support have been received. Issues raised by the objectors:

- Impact on the local area

- Impact on holiday environment
- Noise and disturbance
- Littering
- Anti-social behaviour
- Loss of privacy/overlooking
- Increase in traffic
- Impact on local businesses
- Impact on parking
- Potential use as a HIMO
- Adverse impact on local tourist businesses

The comments in support of the application included:

- Economic benefits to local area
- Provides jobs
- Social and cultural enrichment
- Visual improvement to the building

### **Relevant Planning History**

P/2016/1356 - Torre House - Conversion to 8 self-contained flats - Approved 15.02.2017

P/2016/0882 - Torre House - Conversion to 6 Self Contained Flats - Approved 23.11.2016.

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

The key issues to consider in relation to this application are:

1. Principle of the development
2. Amenity
3. Visual impact
4. Transport Impacts

#### **1. Principle of the development**

The proposal would involve the change of use of a building from a nursing home to student accommodation. There are no Local Plan policies indicating that this would not be acceptable in principle.

#### **2. Economic Benefits**

Policy SS4 (The economy and employment) of the Torbay Local Plan supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's

Economic Strategy. The Local Plan supports existing businesses and education facilities, it encourages new businesses and investment in order to create new jobs, and it enables expansion and diversification of the economy of the Bay. Given that the use of the building is to provide accommodation for students attending an existing educational facility, the use of the premises provides jobs and the students staying at Torre House would contribute to the local economy, it is deemed that the proposal would comply with Policy SS4.

Policy SS11 (Sustainable communities) of the Torbay Local Plan details that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay, and particularly within Community Investment Areas, will be supported in principle. Given that the proposal utilises an empty building within a Community Investment Area for student accommodation, it is deemed that the proposed development does lead to an improvement in economic conditions in Torbay. However, Policy SS11 does also detail that proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, anti-social behaviour, disorder and community conflict. Representations have been received during the course of the application with regards to potential anti-social behaviour associated with the proposed use of the building and this issue will be addressed in the 'amenity' section of this report.

Given that the proposal provides an educational tourism use and utilises a building just outside a Core Tourism Investment Area which provides economic benefits to the local economy. However, given that concerns have been raised with regards to noise and disturbance, and anti-social behaviour, it is recommended that if permission is granted, it should be for a temporary two year period to ensure that the premises are satisfactorily managed. Subject to relevant conditions, it is considered that the proposal would comply with Policies SS4 and SS11 of the Torbay Local Plan.

### **3. Amenity**

Policy DE3 (Development amenity) of the Torbay Local Plan details that all development should be designed to provide a good level of amenity for future residents or occupiers and should not duly impact upon the amenity of neighbouring and surrounding uses. A number of objections have been raised with regards to the potential noise and disturbance, littering and anti-social behaviour from the proposed use of the building.

The Senior Environmental Health Officer does not consider the proposed use of the building to be intrinsically noisy and he has commented that if the premises are run in a responsible fashion, he sees no reason for anyone to be unreasonably affected by noise. He has commented further that if issues with noise from students were to arise and they were not dealt with by the owners of the buildings, the Council can utilise its powers in the Statutory Nuisance regime to resolve the situation.

However, given the objections raised with regards to noise and disturbance, and in order to preserve residential amenity, the Senior Environmental Health Officer has recommend that a condition is included with any permission which requires the development of a noise management plan and that the details of this plan are to be approved by the local planning authority. He has also recommend that a review mechanism be put in place so that should it be required, the noise management plan can be modified in consultation with the Council.

The submitted information states that there is a curfew for all students of 21:00 Sunday to Thursday and 23:00 Fridays and Saturdays, and that external lighting is switched off at the curfew hour. A draft management plan includes details regarding litter and it states that the students are directed to public parks to play ball games. Students staying at Torre House would have access to a number of internal communal areas, and it is noted that both Torre Abbey Meadows and Torre Abbey Sands are approximately a 5 minute walk away from the premises.

It is also noted in the Management Plan that students will be required to access the building via the separate pedestrian access steps off Falkland Road. This will minimise pedestrian movement from the main vehicular entrance across the frontages of the two neighbouring buildings, Abbey Court Hotel and Renowell Court Flats.

Whilst it is acknowledged that there are understandable concerns with regards to noise and disturbance and anti-social behaviour, it is considered that these issues can be controlled via the submission of a robust management plan. Furthermore, permission can be for a temporary two-year period to enable the management of the premises to be monitored by the authorities. A condition can also be used to limit the building's use to EF students only.

Subject to these conditions, it is considered that the proposal would comply with Policy DE3 of the Torbay Local Plan.

#### **4. Visual impact**

Policy SS10 (Conservation and the historic environment) of the Local Plan states that proposals will be supported which preserve, and where appropriate enhance, the significance and setting of the district's heritage assets. Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space.

It is noted that Policy DE1 also states that, where appropriate, the removal of unsightly additions will be required when considering the conversion of existing buildings. It is also noted that the conversion of the building to residential use was granted planning permission in 2017, subject to the removal of several extensions to the rear of the building, and one to the side, along with the replacement of uPVC

windows with timber units. The Council's Conservation Officer has objected to the proposal on the grounds that it would not result in the removal of the extensions to the side and rear of the building, and would not involve the replacement of uPVC windows.

The proposed use would occupy the whole of the existing building, including its extensions. The removal of these additions would result in the loss of three of the proposed bedrooms, a sitting area, and a boiler room. As discussed earlier in this report, a temporary planning permission is proposed in this case to enable the Council to monitor the use of the site and to ensure that it is operated in accordance with a detailed management plan, intended to prevent any harmful effects in relation to local and neighbouring amenity. Given that a planning permission may not be extended in future, it is not considered appropriate at this time to require the applicant to undertake expensive building works involving the removal of ground and first floor extensions. However, the Council would reserve the right to revisit this matter in future, should the applicants apply for a permanent planning permission, which the Council would otherwise be willing to support.

If, as recommended, a temporary planning permission is to be granted, then the proposal is considered acceptable in its current form, that is, without the removal of any existing extensions. Under these circumstances, it is considered that the proposal is in accordance with Policies DE1 and SS10 of the Torbay Local Plan.

## **5. Transport impacts**

The students staying in the building would typically be aged 14 - 19 and car ownership is unlikely. As such, it is considered that the proposed use of the building as a student residence would not result in any more vehicle trips than the previous use of the building as a Nursing Home. As such, it is deemed that the proposal would not result in any considerably worse transport impacts than the existing use of the building as a hotel.

## **6. Other Considerations**

The Council's Conservation Officer has objected to the installation of new uPVC windows and the erection of a fence at the front of the property. These works have already been undertaken but do not form part of the application under consideration. These elements may need to be the subject of enforcement action by the Council if a separate consent is not given. A condition is recommended to clarify that planning permission does not relate to any operational works.

## **Neighbourhood Plan**

The Torquay Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-

examination draft neighbourhood development plan, so far as material to an application.

There are no policies in the emerging Torquay Neighbourhood Plan that are material to this planning application.

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

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

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

### **Local Finance Considerations**

#### **S106/CIL -**

S106:

Not applicable.

CIL:

Not applicable.

#### **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.

### **Proactive Working**

In accordance with the National Planning Policy Framework the Council has worked in a positive and pro-active way but has concluded that the application is unacceptable for planning approval.

### **Conclusions**

Subject to the use of conditions, the proposal is considered to be in accordance with Torbay Local Plan and all other material considerations.

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

01. The use hereby approved shall cease within two years of the date of this planning permission. Reason: To allow for sufficient time to monitor the operator's adherence to the approved Management Plan and to maintain control over a temporary form of development, in accordance with Policies DE3 of the Torbay Local Plan 2012-2030.

02. For the avoidance of doubt, this planning permission only relates to the change of use to student accommodation and does not permit any operational development, including the installation of windows or erection of fencing.

Reason: To protect the character of the area, in accordance with Policies DE1 and SS10 of the Torbay Local Plan.

03. Within two weeks of the date of this planning permission, a management plan shall be submitted to the Local Planning Authority for its approval in writing. The management plan shall include the following:-

- A code of conduct for students whilst on site
- A proposed scheme of monitoring
- A scheme of sanctions should students fail to comply with the code
- A reporting scheme so residents can express their concerns
- A liaison and review mechanism to address emerging concerns

The use shall thereafter be undertaken in full accordance with the approved details.

Reason: To ensure that the use of the building is properly managed and monitored in the interests of preventing harm to the amenity of the area, and in accordance with Policy DE3 of the Torbay Local Plan 2012 and 2030.

04. Only students associated with Education First International Academy shall reside at the student accommodation hereby approved.

Reason: To maintain control of potentially inappropriate development as the sui generis use of the premises as described in the application is considered appropriate in this location in that it would comply with Policies DE3 of the Torbay Local Plan (2012-2030). Any subsequent sui generis use or changes in operation by subsequent owners would have to be considered on their individual merit.

05. Within three months of the date of this planning permission, 10 secure, covered and lockable bicycle storage spaces shall be provided in accordance with full details (to include details of layout and the design of



the facilities) which have first been submitted to and approved in writing by the Local Planning Authority. These facilities shall be made available for use by users of the site in accordance with the approved details and maintained as such at all times.

Reason: To provide for and encourage sustainable forms of travel to and from the site, in accordance with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

06. Within one month of the date of this planning permission, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall provide details of the proposed means of encouraging the use of sustainable modes of transportation, including the provision of information to the site's users. Once approved, the Travel Plan shall be implemented in full.

Reason: In the interests of road safety and sustainability, and in order to accord with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

07. Within one month of the date of this planning permission, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall provide details of the proposed means of encouraging the use of sustainable modes of transportation, including the provision of information to the site's users. Once approved, the Travel Plan shall be implemented in full.

Reason: In the interests of road safety and sustainability, and in order to accord with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

### **Informative(s)**

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

### **Relevant Policies**

DE1 - Design  
DE3 - Development Amenity  
SS10 - Conservation and Historic Environment  
SS11 - Sustainable Communities Strategy  
SS4 - The economy and employment

T2 - Transport hierarchy

**Application Number**

P/2018/0684

**Site Address**

Foxhole Community Association  
Belfield Road  
Paignton  
TQ3 3UZ

**Case Officer**

Gary Crawford

**Ward**

Blatchcombe

**Description**

Installation of 10m lighting column for use by Devon Air Ambulance.

**Executive Summary/Key Outcomes**

The application seeks permission for the installation of a 10m high lighting column adjacent to the playing field at the Foxhole Community Centre in Paignton. The proposal would provide emergency lighting for the Devon Air Ambulance and would enable the Devon Air Ambulance to extend its emergency service provision up until midnight every day. The lighting would be controlled by a remote switch activated via a call-in/call-out system during an emergency, allowing the playing field to be used as a community landing site.

The proposal is considered to be acceptable in this location and without any overriding detriment to residential or visual amenity, subject to the use of planning conditions. Consequently, the proposal meets Local Plan policy requirements, specifically Policies DE3 (Development amenity) and DE1 (Design).

**Recommendation**

Conditional approval (condition at end of report).

**Reason for Referral to Development Management Committee**

As the development is on Council owned land and an objection has been received, the Council's constitution requires the application to be referred to the Development Management Committee for determination.

**Statutory Determination Period**

The determination date is 3rd September 2018.

**Site Details**

The site, the playing field at Foxhole Community Centre, Paignton, is located to the rear of residential properties in Belfield Road on its south eastern side and Pimm Road on its south western side, and adjacent to Kings Ash Academy. There is a multi-use games area immediately to the north west of the application

site which features two existing floodlights. Access to the site is from a driveway off Belfield Road or from Pimm Road.

### **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")

#### Material Considerations

- Emerging Paignton Neighbourhood Plan
- 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.

### **Detailed Proposals**

The application seeks permission for the installation of a 10m high lighting column adjacent to the playing field at the Foxhole Community Centre. The lighting would comprise a steel column with two 150 watt LED floodlights on top. The proposed lighting would provide emergency lighting for the Devon Air Ambulance and would be controlled by a remote switch activated via a call-in/call-out system during an emergency allowing the playing field to be used as a community landing site. The applicant has detailed that the floodlights would enable the Devon Air Ambulance to extend its emergency service provision up until midnight every day and will be operational for the minimum time required to deliver the emergency service.

### **Summary Of Consultation Responses**

Senior Environmental Health Officer: No objections, the submitted lighting plan shows that the illumination is not particularly significant.

### **Summary Of Representations**

One letter of objection and 14 letters of support have been received.

Issues raised by the objector:

- Impact on residential amenity
- Impact on the playing field

The comments in support of the application include:

- It provides facilities for an air ambulance to land in the event of an emergency at night

### **Relevant Planning History**

P/2009/0993: Demolition of Foxhole Community Centre and sports changing room annex. Formation of single storey modular community centre building with external shared multi use games area and associated external works with vehicular and pedestrian access. Approved 5/11/2009.

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

The key issues to consider in relation to this application are:

1. Principle of the development
2. Impact on amenity
3. Visual impact
4. Biodiversity

#### **1. Principle of the development**

Policy SC1 (Healthy Bay) of the Torbay Local Plan specifies that all development should contribute to improving the health and well-being of the community. The proposed development involves the installation of a lighting column that would provide emergency lighting for the Devon Air Ambulance during the hours of darkness up until midnight. The submitted Design and Access Statement details that the proposed lighting would help reduce the risks associated and time taken when landing at a site and would help paramedics when assessing and loading a patient into the aircraft. The lighting would be used in emergencies and would be operational for the minimum time required to deliver the emergency service.

Given the benefits of improvements to the emergency services and the local community, it is considered that the proposal would be consistent with Policy SC1 and the principle of the proposed lighting column is acceptable, subject to its impacts upon residential and visual amenity.

#### **2. Impact on amenity**

Policy DE3 (Development amenity) of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding uses and that the impact will be assessed using criteria which includes the impact of noise, nuisance and light pollution. The proposed lighting column would be positioned approximately 60m from the nearest residential property in Pimm Road and approximately 70m from the rear boundaries of the properties in Belfield Road.

It is acknowledged that there would be some disturbance from noise and activity associated with an emergency helicopter landing upon neighbouring residential

properties. However, the landings would only occur during emergencies and such noise and disturbance is unlikely to be on a regular basis. The applicant has confirmed that the air ambulance has landed on the playing field twice in the last 12 months.

The proposed lighting would be controlled by a remote switch activated via a call-in/call-out system during an emergency allowing the playing field to be used as a community landing site. The applicant has detailed that the floodlights would enable the Devon Air Ambulance to extend its emergency service provision up until midnight every day and will be operational for the minimum time required to deliver the emergency service. The submitted lighting details that the light spillage from the proposed lighting would be approximately 40m. Although the proposed lighting column would be positioned facing towards the rear gardens of the properties in Belfield Road, due to the approximate 70m distance between the proposed lighting column and the rear boundaries of the properties in Belfield Road, it is considered that the proposal is unlikely to result in any significantly harmful impacts upon neighbouring residential properties in terms of light pollution. In addition, it is recommended that a condition is included with any permission which states that the lighting column shall only be used by Devon Air Ambulance in emergencies and shall only be operational for the time required to deliver the emergency service.

As such, subject to the recommended condition regarding the use of the lighting column, it is deemed that the proposal would comply with Policy DE3 of the Torbay Local Plan.

### **3. Visual impact**

The proposed lighting column would be positioned on the north west side of the playing field, close to an embankment and a multi-use games area. The multi-use games area is situated at a higher level to the playing field and features a boundary fence and two existing floodlights, which would help to reduce the visual impact of the proposed lighting column. As such, the proposed lighting column would be read in the context of the existing recreation facilities and it is considered that the proposal would not result in a significantly adverse impact on the character and appearance of the area, and would accord with Policy DE1 of the Torbay Local Plan.

### **4. Biodiversity**

The application site lies outside of a greater horseshoe bat sustenance zone/area and strategic flyway. Given the suburban location of the application site where there are a number of existing street lights and given that the lighting would only be used in an emergency, it is considered that the proposal is unlikely to result in any adverse biodiversity impacts.

### **Neighbourhood Plan**

The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application

The proposal accords with the emerging Paignton Neighbourhood Plan, including Annex 1 and Annex 2 (Design Guide) to Policy PNP1.

### **S106/CIL**

Not applicable for this type of development.

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

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

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

### **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.

### **Conclusions**

The proposal is considered to be acceptable in terms of residential and visual amenity. The proposal is therefore appropriate for planning approval, having regard to all national and local planning policies and all other relevant material considerations.

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

The lighting column hereby approved shall only be used by Devon Air Ambulance in emergencies and shall only be illuminated for the time required to deliver the emergency service.

Reason: To ensure that the lighting is only used during emergency situations and for no other purpose in the interests of residential amenity in accordance with Policy DE3.

### **Informative(s)**

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

### **Relevant Policies**

SC1 - Healthy Bay  
DE1 - Design  
DE3 - Development Amenity  
NC1LFS - Biodiversity and Geodiversity\_



**Application Number**

P/2018/0522

**Site Address**

Land Off Luscombe Road  
Paignton

**Case Officer**

Mr Alexis Moran

**Ward**

Blatchcombe

**Description**

Reserved matters application relating to outline application P/2014/0938 (formation of up to 68 dwellings with associated road and landscaping) REVISED PLANS RECEIVED

**Executive Summary**

This is a Reserved Matters application relating to appearance, landscaping, layout and scale of 68 dwellings. The submitted layout plan broadly follows the master plan approved as part of the Outline Application P/2014/0938. Condition 1 of the outline permission, which refers to the information required as part of the reserved matters application, states that the reserved matters application should be based on the approved Master Plan.

The proposed development would result in 68 new dwellings in a sustainable location; the form, layout and design of the proposed dwellings would be compatible with appearance and character of the surrounding area. Consequently it is, on balance, considered to be appropriate for conditional reserved matters approval, having regard to all national and local planning policies and all other relevant material considerations.

**Recommendation**

Conditional approval.

**Site Details**

This 1.5 hectare site was allocated for housing in the previous Torbay Local Plan (H1.13) and is identified as a potential site for allocation for the Paignton Neighbourhood Plan (Policy SDP 3) in the adopted Local Plan. It is located to the east of Luscombe Road and to the north of its junction with Queen Elizabeth Drive. Two dwellings originally occupied the north-west corner of the site (one of these has been demolished) and the balance of the site is rough pasture but was previously used for camping. It falls within an established residential area.

The site occupies the south east slope of a valley and it slopes quite steeply from north east to south west across the site. The site is bounded to the west by the Luscombe Road designated cycle route and the boundary is defined by a mature hedgerow of 'important' ecological value. A number of trees occupy the site; those within the main body of the site identified as being of arboricultural value have

recently been subject to a TPO. The boundary trees of arboricultural merit are also protected by a TPO.

The site is, apart from the hedgerow and trees, of limited ecological value comprising predominantly horse-grazed pasture. The existing vehicular access to the site is from Luscombe Road. This is a designated cycle route and it provides a safe walking route to school to Kings Ash Academy.

A South West Water main runs north to south across the site and requires a substantial 6 metre easement to be retained free of development. The site is located within Flood zone 1.

### **Detailed Proposals**

This is a Reserved Matters application relating to appearance, landscaping, layout and scale of 68 dwellings. The submitted layout plan broadly follows the master plan submitted as part of the Outline Application P/2014/0938. Condition 1 of the outline, which refers to the information required as part of the reserved matters application, states that the reserved matters application should be based on the approved Master Plan.

The development would be accessed via Luscombe Road to the south-west. The vehicular access point would be formed through an existing agricultural field access close to the junction of Luscombe Road and Queen Elizabeth Drive. This is formed largely from public highway verge fronting 42 Luscombe Road but does extend partway into the Luscombe Road cycle route. The vehicular access was approved as part of Outline Application P/2014/0938.

In total 54 (80%) of the dwellings are for private sale while 14 (20%) of the dwellings will be affordable homes. The dwellings proposed include 2, 3, and 4 bedroom houses. The affordable units would consist of 2 and 3 bedroom houses, with the addition of a pair of 2 bedroom disable access bungalows. The private sale dwellings consist predominantly of 3 bedroom houses (38), with the remainder being smaller two bedroom (14) and larger 4 bedroom (2) homes.

Two areas of Public Open Space are proposed, one in the northern part of the site between units 66 & 67 and one in the southern part adjacent to the proposed access. Existing focal landscape and boundary features such as the hedgerow and a number of existing trees that form the northern and southern boundaries of the site are to be retained.

There is provision for 136 car parking spaces and garages.

### **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")

#### Material Considerations

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

### **Summary Of Consultation Responses**

Natural England: No comment

Environment Agency: No comments received

Ecology consultants: *Following review of the relevant documents, no key ecological issues were identified in relation to the determination of this application. The development site is largely surrounded by residential properties with small areas of woodland directly adjacent and open farmland located approximately 150m to the west. The on-site ecological survey work was largely completed in 2013 for the original planning application (P/2014/0938) and included an extended phase 1 habitat survey along with specific surveys for hedgerows, reptile, hazel dormouse, badger and bats. An updated extended phase 1 habitat survey and updated building inspection for bats were undertaken in March 2018 to determine any changes in the localised habitat and potential for protected species.*

*The EIA and Ecology Update reports indicated that the site boundaries offered potential commuting and foraging habitat for bats. Bat species recorded during activity surveys in 2013 were common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, *Myotis Myotis sp.*, greater horseshoe bat and lesser horseshoe bat *Rhinolophus hipposideros*. Buildings recorded on the site were considered to provide negligible to low potential to support roosting bats. Several trees were identified as having low potential to support roosting bats. No confirmed bat roosts were identified on the site. All of the bat survey work was carried out in accordance with the latest Bat Conservation Trust guidelines at the time of survey.*

*The ecological reports indicated that the site supported small numbers of slow worm (field margins) as well as providing foraging habitat for badger and suitable habitat for a range of common breeding bird species.*

*Although the site falls within the Devon great crested newt consultation zone, the EIA Report stated that no breeding habitat was identified within the site or adjoining areas and further survey was ruled out.*

*The site falls within the Devon cirl bunting consultation zone. The ecology reports indicated that there was little suitable habitat to support the species, with the isolated nature of the site, being surrounded by residential property, also limiting its potential.*

*A summary of the impact assessment, mitigation and residual effects was provided in Table 3 and Figure 1 of the Ecology Update Report. This included a number of measures to mitigate for any potential effects on local habitats, amphibians, badger, bats, nesting birds, invertebrates and reptiles. Further enhancement measures were also detailed within the Design, Access and Planning Statement, including planting locally native species to enhance proposed public spaces within the housing development.*

*The Councils ecology consultant suggests that there is no reason for refusal of this planning application on ecological grounds provided the proposals within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report are implemented. A Landscape and Ecology Management Plan (LEMP) or equivalent should be produced prior to construction to ensure that all mitigation is appropriately managed in the long-term. We would recommend that these measures are secured via appropriately worded planning conditions when this application is determined.*

Drainage: Drainage details were requested via a condition on the outline permission P/2014/0938 and are required prior to commencement.

South West Water: *The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):*

- 1. Discharge into the ground (infiltration); or where not reasonably practicable, Provide written evidence as to why Infiltration devices, including Soakaways, Swales, Infiltration Basins and Filter Drains do not meet the design standards as specified in either H3 Building Regulation standards for areas less than 100m<sup>2</sup>. Soakaways serving larger areas must meet the design standard specified in BS EN 752-4 (para 3.36) or BRE Digest 365 Soakaway Design.*
- 2. Discharge to a surface waterbody; or where not reasonably practicable, Provide written evidence for refusal of discharge consent from owner of water body (Environment Agency, Local Authority, Riparian Owner etc)*

3. *Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable, Provide written evidence for refusal of discharge to drainage system (Highway Authority, Environment Agency, Local Authority, Private ownership)*
4. *Discharge to a combined sewer.(Subject to Sewerage Undertaker carrying out capacity evaluation) South West Water will carry out a hydraulic capacity review of the combined sewerage network before permission will be granted to discharge to the combined sewer.*

Strategic Transport: Have requested additional information regarding junction capacity, more information on a ward basis rather than town wide and clarification re road widths/tracking for refuse vehicles etc. A request for £153,436 sustainable transport contribution is made to improve walking and cycle links in the area.

Highways: No objection

Arboricultural Officer: The revised layout appears to give better consideration of the trees growing on the north eastern boundary. The submitted tree protection plan has not been updated to accommodate the new layout. However, there is now more room for T15 to establish, although this is one of the trees that may need a detailed inspection to assess its long-term suitability for the site.

The updated review of the submitted tree report and plans shows there has been a slight deterioration within the tree stock and there are possible tree management issues to address.

There is block paving proposed within the RPA of retained trees. The installation of this will need to be covered within a method statement which will also cover other proposed landscaping works within the RPA of retained trees.

Tree removal is proposed as part of this scheme which include low, moderate and high value trees. Only two new trees are proposed for removal as part of the revised scheme. These are T26 and T24 which are a beech and a cypress. A review of the site and surrounding area didn't provide significant enough views to identify these specimens as "significant" in terms of public amenity. This would indicate that the trees will be easily mitigated for through the submission of a comprehensive and detailed landscaping plan.

As no TPP has been included with this application, a revised one will need to be drawn up to address the revised layout and areas for the arboricultural method statement.

**RECOMMENDATION:**

Approval subject to conditions

1. Submission of revised TPP prior to work commencing.
2. Submission of arboricultural method statement prior to works commencing.

Architectural Liaison Officer: *All gates that lead to rear gardens must match the same height and robust construction as the adjoining boundary treatment (1.8m as a minimum height requirement).*

*All gates that lead to rear gardens must be capable of being locked from both sides so that rear gardens are secure regardless of access or egress.*

*All garden dividing material must be a solid fence or wall to a height of 1500mm or a 1200mm solid fence or wall with the option of raising to 1500mm or 1800mm by use of trellis or ironwork topping.*

Housing Delivery Officer: Housing Services are pleased that previous comments have been taken on board with regards to the location of the affordable housing units and there are no objections to the revised planning drawing 126 revision p3.

Paignton Neighbourhood Forum: object to the scheme and state that the proposal needs to be submitted to the Design Review Panel in accordance with NPPF62 and their report presented in public to the Development Management Committee before a decision on the application is made as it is considered the form and layout of the proposal is completely out of character with its surroundings

### **Summary of Representations**

Twenty three objections to the scheme had been received at the point at which this report was written. The concerns raised are as follows.

1. Overdevelopment/out of character with surrounding residential area/cramming.
2. Impact on amenity/loss of privacy/overlooking/impact of flats/noise.
3. Loss of greenspace/impact on trees/wildlife.
4. Flooding/septic tanks.
5. Impact on schools/infrastructure.
6. Highway capacity/traffic/impact on junctions to the A380.
7. Access from the site crossing cycle route.

### **Relevant Planning History**

P/2014/0938 - Formation of up to 68 dwellings with associated road and landscaping; Approved 14.05.2018

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

The principle of residential development of this site is long established through the previous allocation in the Local Plan and the granting of Outline planning permission for up to 68 dwellings.

The key issues relate to the appearance, landscaping, layout and scale of development being proposed, its impact on the wider area and the mitigation needed to ensure that its impact on the area is appropriately addressed.

The matters for consideration are:

1. The character of the scheme.
2. The impact on the surrounding properties in terms of amenity.
3. Proposed Landscaping, impact on trees and ecology.
4. Flooding and drainage.
5. Impact on Highway network and traffic related concerns.
6. CIL

Each will be addressed in turn.

### **1. Layout, Appearance, and Scale**

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938. This condition states that the submitted reserved matters shall be based on the approved Master Plan as shown in Plan No.3528 (12) 03 rev P1 and the design concepts outlined within the associated Design and Access Statement dated July 2014.

The layout submitted is broadly based on the Master Plan with the main difference being that the perimeter blocks would now have a different arrangement. This allows for the primary frontages of the dwellings to face outward and turn corners where required, providing more active frontages, which better address the internal road and provide natural surveillance over the public realm.

The proposal is for the provision of 68 residential dwellings and the development would achieve an average density of approximately 16 dwellings per acre. This relates well to the existing density of development adjoining the boundaries of the site, and also accounts for the topography and retention of significant areas of vegetation and open space. The development would consist of two to four bedroom family sized homes.

The proposed dwellings would be finished predominantly with red brick with render used to establish focal buildings through the site and to provide a different texture to corner buildings. Interconnecting concrete pan tiles would be used on the roofs of the buildings.

In order to accommodate the changing ground levels across the site, the sets of terraced properties running across the higher part of the valley side (to the east) are 2-2.5 storeys in height with lower level car parking facing over the valley. This will result in retaining walls with parking areas in front of them, these are to be

broken up with tree planting. The form of development here complies with that proposed by the Master Plan. It is considered that details of the facing materials for retaining walls on the site are sought by condition, it is deemed that the use of brick would be more suitable than render which may discolour over time.

The properties to the south-east of the site are 2-3 storeys in height, unit 40 has been altered from 3 storeys to 2 storeys. A parking area has also been removed from this part of the site to reduce its impact on the adjacent properties on Luscombe Road. There is an area of public open space on the southern boundary of the site.

To the west and south-west of the site the layout of properties is that of loose perimeter blocks which provide active frontages to the road. Unit 35 is sited to provide punctuation and address the corner in line with the orientation of the road. The units in this area are 2-2.5 storeys in height. There is an area to the rear of unit 16 which is shown as a shared surface and includes 6 parking spaces. The Council have requested that the applicant consider a different method of providing parking in this location which would be more neighbourly and reduce the potential for future conflict. There are also areas of parking to the north and south/south-east of the site where the Council have requested amendments.

The properties to the north of the site range from 1-3 storeys in height with those at the far north of the site spanning across the full width of the site. There is an area of public open space adjacent to units 66 & 67 which provides an area of relief from the urban form of the development and allows for the addition of an area of quality landscaping.

The proposed development seeks to respect the existing character of the area in terms of design and with regard to the palette of materials proposed. The orientation of many of the units will seek to capitalise upon the views over the open countryside that are available to the west. This scale and form of development is less dominant than the 4 storey blocks of flats which occupy the adjacent site.

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

The affordable units have been provided in two main clusters, housing services have confirmed that they are happy with this layout. Two of these (units 5 & 6) are to be accessible units and the applicant has confirmed that these will meet the accessible specifications as required by the s106 agreement for the Outline permission.

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



the topography of the site and is reasonably consistent with more recent development in the area. Given its position, landscaping, and design within the existing urban area, it is considered that it would have limited visual effects on the more open rural areas beyond the site to the west.

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

It is noted that there is an objection to the scheme from the Paignton Neighbourhood Forum which states that the form and layout of the proposal is completely out of character with its surroundings. However there is an outline consent on the site for up to 68 dwellings with a condition advising that the layout should be based on the Master Plan submitted with the application. As previously mentioned, the submitted layout is broadly based on the Master Plan, and is considered to be an acceptable way to accommodate the number of units proposed within the land area available, considering the constraints upon it.

Policy SS11 (Housing) states that there is a requirement for 8,000-10,000 new homes to be built within the plan period as long as these can be delivered without harm to either the economy or the environment. Torbay does not currently have a 5 year housing land supply and the site has not been allocated in the Paignton Neighbourhood Plan. The proposed development provides the opportunity of a deliverable sustainable development in Paignton, which meets the needs and demands of local communities for new open market and affordable housing.

## **2. The impact on Amenity**

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

When considering the impact on the surrounding properties and firstly concentrating on those to the north on Montesson Road, the distance between the rears of the proposed properties and the side elevation of 12 Montesson Road is approximately 15m which, in an urban environment, is considered to be an acceptable side to rear relationship.

The distance between the rear elevations of 1 & 3 Montesson Road and the rear elevations of the closest proposed properties is in excess of 20m, a distance which is deemed to be acceptable in terms of potential overlooking/loss of privacy.

The distance between the side elevations of the 4 storey apartment blocks to the

north of the site and the rear elevations of the proposed units is acceptable and it is not deemed that this would result in an unacceptable level of overlooking/loss of privacy.

The separation distances between the properties on Kings Ash road and the proposed development is sufficient to prevent any unacceptable impacts with regards to loss of privacy/overlooking.

To the south of the site, alterations have been made to the proposal with a parking area removed from this boundary and unit 40 being reduced in size and massing and orientated differently. It is considered that the amendments now provide a suitable residential environment between the properties to the south on Luscombe Road (no. 42 & The White House).

Turning to the relationship internally, between the proposed dwellings, the layout is such that there are minimal conflicts in terms of overlooking/loss of privacy and outlook. The side to rear and rear to rear distances are considered to be acceptable in terms of the requirements of Policy DE3. The distance between the front and rear of units 19 & 20 is approximately 6m however the orientation of the two would mean that views between properties would be oblique. It is considered that their orientation to one another, does on balance, result in a relationship which would not result in a significant level of overlooking/loss of privacy.

The gardens of all the properties and the internal floor areas meet the standards set out in the local plan relating to policy DE3. As previously noted, alterations to some of the parking areas have been requested to improve the relationships between vehicles and dwellings.

There is a slight concern with regard to the rear gardens of units 64-66 where, based on the submitted plans, there appears to be overhanging tree limbs which may result in dark rear gardens and pressures to fell the trees to the rear of these properties.

Although the rear gardens of units 64-66 provide suitable amenity spaces in terms of size standards there is potential for them to have limited light, and to suffer from tree debris and sap fall. Although it is not considered that this would lead to unacceptable levels of light into habitable areas, the quality of the amenity spaces would be somewhat reduced.

However the applicant has submitted a shadow analysis plan which appears to show that the trees would not cause a significant loss of light to the rear gardens of these properties.

Overall however it is not considered that the spatial relationship between the trees and units 64-66 is sufficient enough to warrant the refusal of the application and the arboricultural officer has not raised an objection on this point.

Tree details were conditioned as part of the outline permission where an Arboricultural Implications Study was requested prior to the commencement of development.

Given its siting, scale, and design, it is considered that the proposal would not result in unacceptable harm to the amenities of existing occupiers, and that it would provide an adequate standard of living accommodation for the enjoyment of the proposal's future occupiers. In these respects, the proposal is considered to be in accordance with Policy DE3 of the Torbay Local Plan.

### **3. Landscaping, Trees, and Ecology**

The principle of the proposed development is established, however, the proposed landscaping is under consideration, and all of the reserved matters being considered can have potential knock-on effects in relation to ecology and trees.

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. There are 36 trees on the site; 19 are to be retained with 17 being removed. Of the trees to be removed, 6 are protected by a tree preservation order, these are located on the boundary edge. Two additional trees are to be removed as part of this Reserved Matters application. The submitted tree report states that these are showing signs of neglect or damage.

The Council's Arboricultural Officer has advised that the loss of the trees would not be considered as "significant" in terms of public amenity and they could therefore be mitigated for. The Council's Arboricultural Officer has advised that the revised layout appears to give better consideration of the trees growing on the north eastern boundary and that the updated review of the submitted tree report and plans shows there has been a slight deterioration within the tree stock.

Although the development will inevitably result in the loss of some trees, the proposed development has been designed to limit the impact on the landscape. Two areas of open space are provided on site, one to the south and one to the north-east which include improvements to landscaping and tree planting. The scheme provides on-street tree planting to break up the urban form of the development and create soft corners. It is deemed that the mitigation planting and the creation of two public open spaces would serve to soften the proposal's impact within the wider landscape and result in an acceptable effect on both landscape and visual receptors.

Comments from the Council's Arboricultural Officer requested conditions regards Tree Protection Plans and an Arboricultural Method Statement. However this is not deemed necessary as there is a condition on the outline permission (P/2014/0938) which requires the submission and approval of an Arboricultural Implications

Study. This includes the submission of details of all the trees and hedgerows to be retained and tree protection measures in relation to all retained trees and hedgerows and that a Method Statement shall also be submitted setting out how works are to be implemented adjacent to retained trees and hedgerows. Details of the management of the retained hedgerows during the construction period shall form part of the Implications Study. These details are to be considered as part of an application for the discharge of this condition.

In terms of the ecological value of the site, an Ecological Impact Assessment has been submitted following a Phase 1 Habitat Survey. This identifies broad mitigation and enhancement proposals pre and post construction, and seeks to ensure that the most important ecological features of the site are protected and indeed improved.

A summary of the impact assessment, mitigation and residual effects was provided in Table 3 and Figure 1 of the Ecology Update Report. This included a number of measures to mitigate for any potential effects on local habitats, amphibians, badger, bats, nesting birds, invertebrates and reptiles. Further enhancement measures were also detailed within the Design, Access and Planning Statement, including planting locally native species to enhance proposed public spaces within the housing development.

The submitted ecological impact assessment notes that bats use the lane for commuting purposes. The Council's ecology consultant has advised that the proposals are unlikely to affect the use of the lane by individual bats therefore it is extremely unlikely this development would have a Likely Significant Effect on the integrity of the South Hams Greater Horseshoe Bat Special Area of Conservation (SAC). As such it is unlikely that a Habitat Regulation Assessment (HRA) is required however the Council will screen the proposal to confirm this. An update will be provided to the DMC.

The Council's ecology consultant has no objection to the scheme subject to the proposals within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report being implemented and subject to a Landscape and Ecology Management Plan (LEMP) being conditioned. However, the Outline permission already requires the submission of a LEMP and a CEMP (Construction and Ecology Management Plan). Therefore this is already addressed, it is considered that a condition requiring the implementation of the mitigation measures in the Ecology Update Report can be requested by condition.

The Outline permission also required the submission of an external lighting strategy prior to the occupation of any of the units. This is to ensure the lighting from roads and footpaths has a minimal impact on bats in the area.

Subject to the aforementioned condition and further discharge of condition information in relation to the outline consent, the proposal is deemed to comply

with Policies C4 and NC1 of the Torbay Local Plan.

#### **4. Flooding and Drainage**

Comments from South West Water are noted, however a condition relating to the submission of drainage details prior to the commencement of development was added to the Outline permission P/2014/0938. As such these details will be provided to the Council as part of a separate assessment exercise.

#### **5. Highway Impact**

These details were determined at the outline stage with conditions added to P/2014/0938 accordingly. The Council's Highways Department has confirmed that the road layout is acceptable and is of a standard which is adoptable. This accords with the requirements of the outline permission. The proposed layout includes parking spaces for 136 cars, or 2 per dwelling, which complies with the Council's parking standards.

The proposal is deemed to comply with Policies TA2 & TA3 of the Local Plan.

#### **6. Community Infrastructure Levy**

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

#### **Neighbourhood Plan**

The Paignton Neighbourhood Plan is currently at examination stage and the relevant policies for this application are Policy PNP1 (Area wide – provide housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, including affordable housing), PNP1(c) (Design Principles), PNP1(d) Residential Development and PNP20 (Great Parks). These requires development to be in keeping with the surroundings in terms of scale, density, height, design and landscaping and to comply with the Great Parks master plan. The proposal is deemed to comply with these Policies.

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

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

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

### **EIA**

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

### **Proactive Working**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way but has concluded that the application is unacceptable for planning approval.

### **Conclusions**

The proposed layout, scale, appearance, and landscaping are considered to be acceptable, subject to the use of conditions. As such, the proposal is considered to be in accordance with the Torbay Local Plan, and all other material considerations.

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

01. Prior to development above damp proof course level details of the proposed cladding (walls and roof), openings, retaining walls and hard landscaping materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

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

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

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

03. All planting, seeding or turfing comprised within the landscaping scheme hereby approved shall be carried out in the first planting season following the

completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within three months of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1 & C4 of the Adopted Torbay Local Plan 2012-2030.

04. The dwellings hereby approved shall not be occupied or brought into use until the associated parking spaces and manoeuvring areas detailed on the approved plans have been completed. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

05. Prior to the first occupation of each dwelling hereby permitted, provision shall be made for its refuse and bicycle storage according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to either the proposed or existing dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

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

07. The development shall proceed fully in accordance with the mitigation recommendations within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report. These measures shall be retained as such for the life of the development.

Reason: To ensure that the development proceeds in an appropriate manner, in

accordance with Policy NC1 of the Torbay Local Plan.

08. Prior to the construction of the proposed retaining wall at the rear of Plot 68 indicated on drawing ELL-220-PER-B-3000, a geotechnical engineering assessment of the stability of the retained soils with regard to any potential destabilising effects brought about by construction and/or in-service conditions shall be submitted to the Local Authority for its approval in writing. The retaining wall shall be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure a safe and satisfactory development and in accordance with Policy ER4 of the Torbay Local Plan.

### **Informative(s)**

01. Community Infrastructure Levy (CIL) This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough CIL next steps required under the CIL Regulations 2010 (as amended): Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure. Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development. The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice. The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure. Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations). Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

02. For the avoidance of doubt, any works to be undertaken within the public



highway will require the separate consent of the Highway Authority.

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

### **Relevant Policies**

DE1 - Design

DE3 - Development Amenity

H1 - New housing on identified sites

TA3 - Parking requirements

TA2 - Development access

C4 - Trees, hedgerows and natural landscape

NC1 - Protected sites - internationally important

SS11 - Sustainable Communities Strategy

ER4 – Ground Stability