



Friday, 2 November 2018

DEVELOPMENT MANAGEMENT COMMITTEE

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

Monday, 12 November 2018

commencing at **2.00 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Torquay, TQ1 4DR

Members of the Committee

Councillor Kingscote (Chairman)

Councillor Barnby	Councillor Tolchard
Councillor Lewis (B)	Councillor Winfield
Councillor Morey	Liberal Democrat Vacancy
Councillor Pentney	Councillor Manning

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

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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 - 5)
To confirm as a correct record the Minutes of the meeting of this Committee held on 8 October 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. **Park Hotel, 22-25 Esplanade Road, Paignton (P/2018/0804)** (Pages 6 - 35)
Demolition of existing hotel and formation of 161-bedroom hotel with ancillary facilities (proposal/description amended 25 September 2018).
6. **Astoria court, 5 Belle Vue Road , Paignton (P/2018/0184)** (Pages 36 - 45)
Conversion of existing building to form 5 houses and 5 apartments, including: demolition of existing extensions, erection of two-storey and first-floor extensions, installation of three new dormers, and formation of pitched roof over existing flat roofed outbuilding.

7. **The Anchorage, Headland Road, Torquay (P/2018/0348)** (Pages 46 - 54)
Replacement dwelling (variation of condition P1 of original planning permission P/2015/0986) - to raise roof height, extend area enclosed by glazed balustrade above rear garden level accommodation and installation of 4 air conditioning units and a flue to the rear of the garage/cinema room on the side (west) elevation.
8. **Public speaking**
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email governance.support@torbay.gov.uk before 11 am on the day of the meeting.
9. **Site visits**
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 7 November 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

8 October 2018

-: Present :-

Councillor Kingscote (Chairman)

Councillors Barnby, Lewis (B), Morey, Tolchard and Ellery

16. Apologies for absence

It was reported that, in accordance with the wishes of the Independent Group, the membership of the Committee had been amended for this meeting by including Councillor Ellery instead of Councillor Stockman.

17. Minutes

The Minutes of the meeting of the Development Management Committee held on 10 September 2018 were confirmed as a correct record and signed by the Chairman.

18. Arboricultural Response to the Motion for Network Rail Trees to be Protected by Tree Preservation Orders to Prevent the Felling of Trees

The Committee considered the submitted report on the Arboricultural Team's response to the notion of motion which was presented at the Council meeting on 19 July 2018, which proposed that Tree Preservation Orders (TPOs) are made to protect trees on Network Rail land.

It was noted that legislation affecting TPOs allows tree removal and pruning works be carried out on Network Rail land where this is necessary in the interests of safety and that the making of TPOs to restrict the felling of trees immediately adjacent to the trackside would be unnecessary and could place the Council in a difficult position. It was proposed that Officers continue to liaise with Network Rail to ensure the retention of trees wherever possible, as recommended by Government guidelines.

The clearance of tree growth will ensure the track is unimpeded by vegetation for safety management.

Resolved:

- (i) That no Tree Preservation Orders are made in order to restrict the reasonable tree works that are being carried out to remove and prune trees next to the trackside; and

- (ii) that trees on Network Rail land do often have substantial public amenity value which could also provide ecological habitats. Therefore representatives from the Natural Environment team liaise closely with Network Rail and their contractors to ensure that those trees that are providing these benefits and that can be retained are identified and kept for the future, wherever possible.

Chairman

Application Number

P/2018/0804

Site Address

Park Hotel
22 - 25 Esplanade Road
Paignton
TQ4 6BG

Case Officer

Mr Alexis Moran

Ward

Roundham With Hyde

Description

Demolition of existing hotel. Formation of 161-bedroom hotel with ancillary facilities (proposal/description amended 25 September 2018)

Executive Summary/Key Outcomes

The proposed development would result in the demolition of a disused and boarded-up 47-room hotel, which is an undesignated heritage asset, and the construction of a new, purpose-built 161-room hotel within the Core Tourism Investment Area. The proposal would include a restaurant, bar, and spa at the ground-floor level, with a raised outdoor seating area.

It is considered that the form, layout and design of the proposed hotel building would make appropriate use of the site's size and location on Paignton seafront. The modern design represents a change from the existing context along Esplanade Road, however, subject to the use of appropriate conditions to secure suitable materials and landscaping, it is considered that the proposal would result in a high quality addition and visual enhancement to Paignton's seafront. The provision of modern accommodation and associated leisure facilities has the potential to improve Paignton's attractiveness as a visitor destination. The proposal would bring significant economic benefits and, in the absence of any unacceptable harm in the other material respects, the proposal is recommended for approval, subject to the attached conditions and the completion of a legal agreement.

Recommendation

Conditional approval, subject to the completion of a legal agreement to secure contributions towards flood mitigation; the approval of outstanding transport/highways information; and conditions. The final drafting and addition of conditions; the completion of the legal agreement; and the agreement of outstanding transport/highways matters, to be delegated to the Executive Head for Assets and Business Services.

Site Details

The site comprises land currently occupied by the Park Hotel in Paignton. The existing hotel is vacant and has been boarded up for some time. The site is

located on Paignton's seafront and within the Core Tourism Investment Area.

The existing building is three storeys in height with a basement below. The building originally formed several villas, which have been unsympathetically extended at the side and rear. The area to the front of the hotel largely comprises a tarmac parking area.

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

Detailed Proposals

The application proposes the demolition of the existing, derelict 47-room hotel, and its replacement with a new purpose-built 161-bed hotel with associated leisure facilities.

The proposal would include 161 bedrooms (including 8 wheelchair accessible rooms), 52 parking spaces (including 3 disabled spaces) and associated facilities, including a restaurant/bar, spa, and outdoor seating terrace to the front of the building. It is anticipated that the building would be occupied by a 3-star hotel operator.

The proposed hotel would have a modern design and would be 5 storeys tall with the overall height being 18.5m, which is approximately 4.2m higher than the existing 3 storey hotel. The fifth storey is recessed to reduce the dominance of the new structure. There would be two modest areas of plant set on top of the fifth storey roof (comprising lift and kitchen extraction equipment); these plant structures would be set well within the main elevations of the building and would measure approximately 1m in height. The hotel includes an internal courtyard. To the rear, the height of the proposed building would stagger down to 3 storeys and approximately 11.7m in height.

The footprint of the proposed hotel building would measure around 48m in width along its frontage, and would have a depth of approximately 39m.

There would be a terrace area over two levels at the front of the proposed hotel, which is approximately 1.7m in height from street level. This area includes a scheme of landscaping.

The reception and restaurant would be located above the 1:200 flood event with sleeping accommodation located approximately 1m higher for additional safety. The main vehicle access would be from Beach Road into a 52-space, enclosed car park located within the site.

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

South West Water: No objection

Strategic Transport:

Parking: Further information regarding the transport assessment addendum is awaited. Although the site is not within the town centre as defined by the Local Plan, it does share many of the accessibility characteristics of such sites. As such a lower level of provision could be acceptable. That said, the level that is provided is far below expectation and without securing additional capacity in the nearby car park/s, it would be difficult to support. There is capacity in the local car park/s notwithstanding the fact that parts are currently closed off. If there is no other solution to providing additional capacity on site, then a commitment to agreeing additional capacity through the public car park would be needed.

The car park remains very restrictive and this, along with the capacity shortage, may encourage parking on the surrounding streets as an alternative. Again this could be managed through the traffic regulation order. It would help to demonstrate that car doors can be opened using an 'average' car design. There are other spaces where they conflict with the wall and it areas that would make manoeuvrability challenging.

In summary concerns exist over the level of parking provision but that with a commitment from the applicant and agreement from the Council (not LPA) spaces would be able to be secured. Alterations to the parking restrictions would be needed to ensure no adverse effect on the surrounding roads. There should be a demonstration that the car park design allows for 'average' or 'typical' vehicles to access all spaces and open doors without conflict. Electric Charging points will need to be provided, along with the agreed parking spaces, prior to the commencement of the use.

Transport Assessment: Some matters cannot be confirmed until the updated TA has been received.

Loading Bay: Conversations with colleagues in the Highways section have raised significant safety and operational concerns about the siting of a loading bay between Esplanade Road and rear access road. One has previously been refused here. Options to avoid this stalling the application would be:

- A) To move the loading to Beach Road, presumably in an exchange for the drop off but that would likely require a reorganisation of the internal layout of the building.
- B) To modify the building layout to allow for an off-street or lay-by loading solution, or
- C) To move the loading further along Garfield Road, the opposite side of the rear access road. Currently there is a long length of loading bay for cars along this section. It may be possible to consider a build out at the junction of the rear access road and to extend the loading bay down to that build out, i.e. providing a protected bay. The role of the build-out would be to provide visibility splay required, enabling the loading bay to be extended towards the application site.

The build out would restrict right turning movements from Garfield Road but these are likely to be restricted by virtue of the "No Entry" arising from the one-way system to the rear access lane. While this is clearly not the most desirable solution for loading associated with the application site (given the distance involved), it would provide a safe solution that would not conflict with the operation of the junction, and visibility of signs in particular. A TRO would be required, with the costs of advertising and the associated works to be fully covered by the applicant. The construction of the build out would also need to be addressed by the applicant.

Highway Works: A one way solution would be acceptable, operating from Beach Road to Garfield Road. If a system could be included to indicate when the car park was full, so as to prevent unnecessary journeys looping from Beach Road, through the car park, to Garfield Road, Esplanade Road, and returning to Beach Road and perhaps to the Car Park this would be a better solution. The visibility splay would still be required from the exit and to the standard set out by our Highways team.

An alternative solution which would be preferable from a highway perspective, would be to have the entry and exit of the car park on Beach and Garfield Road respectively. Therefore not using the road at the rear.

It is believed that the following will be provided by the applicant:

Build out on Beach Road

Build out/s on the rear access road for visibility

Traffic Regulation Order for one-way on rear access road
Traffic Regulation Order for alterations to parking on Beach Road and to address seasonality conflicts on Beach Road and Garfield Road.

The loading bay works have yet to be agreed so these are not listed but without provision for loading the application does not accord with Parking expectations set out in Appendix F of the Local Plan.

Senior Environmental Health Officer: No objection to the proposed development, but note that it is close to residential property in Garfield Road and to the rear. As such there are concerns that noise and dust from the demolition of the existing building will affect residents. In order to minimise this, the contractor should submit a demolition method statement that complies with the guidance laid down in the BRE *Document Control of dust from construction and demolition activities* and the provisions of BS5228 BS 5228-1:2009 Code of practice for noise and vibration control on construction and open sites.

Environment Agency: No objection to the proposed development as submitted subject to the authority deeming that both the Sequential Test and Part 1 of the Exception Test (i.e. there are wider sustainability benefits to the community that outweigh flood risk) can be satisfied.

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

Drainage: Providing the surface water drainage is constructed in accordance with the submitted hydraulic calculations and drawing number SK001/A, there are no objections on drainage grounds to planning permission being granted.

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

Design Review Panel:

05.04.2018

The building is not listed, nor is it within a conservation area and therefore there is little to compel that it should be retained. However, the detailing and architectural composition of the building is not without interest and quality - it should be the ambition to maintain a high level of design quality in any

replacement on this prominent site.

In terms of constraints and guiding principles that might be present within the context, it is understood:

- that an encouragement to maintain the current height of buildings along the sea front Esplanade exists (an un-adopted Building Height Strategy). The height here is not uniform and we note the taller 20th century building that now occupies a position to the south of the main axis of the town - which might be balanced by a modest increase in scale on this site. There are important groupings of buildings which are clearly co-ordinated in their type and therefore height, but this site is discrete from those and could be successfully developed at a modestly greater scale.
- in a similar fashion, although a 'building line' clearly exists, the rigor to which this is adhered is variable and the site occupies a distinct location at which the alignment becomes 'cranked' or deflected - again pointing to the possibility that something particular in terms of townscape / urban form could be appropriate.
- there is obviously a frontage condition (responding to the sea views, open space, etc.) and any redevelopment should aspire to improve the quality of the building frontage in relation to the public realm. As these frontage sites extend westwards, they also contribute to the perpendicular hinterland of secondary streets running east-west and these represent a related but different character within the context.
- the side street immediately to the north of the site seems more significant as an existing/future route, since it connects more directly into the wider pedestrian network linking back to the town centre and adjacent 'opportunity sites' - we understand that this has been identified within recent planning studies/frameworks for the town centre.

Also affecting the presentation and posture of the public front of the building was the proposition for an extensive flat roof over the public rooms - creating a weak outlook for hotel guests looking out and over it. We also think that this idea creates an unattractive formal presence in more general terms and the positioning of the main entrance is weak on the corner of this secondary form.

The top floor of the building might have some form of special treatment - the section currently shows a simple repeat of the floor below. Thoughts about special functions (roof top bar?) or perhaps particular room-types, that might make more of the opportunities - for public views, or particular spaces that might take advantage of light, more articulated three-dimensional volume or outlook (from a terrace/balcony - perhaps?). The top floor here would seem to be a great opportunity that deserves a particular design response.

11.06.2018

The landscape design in front of the building seems overly-complex and the necessary combination of steps and ramps needs to be more minimally handled with larger simple terraces that might then provide more elegant and flexible spaces. A good scale of planting needs to be specified to partially divide the external areas associated with the hotel from the busy road.

The merits of the front elevation presenting as a singular plane were discussed previously- this has been explored alongside the 'paired' buildings approach. The illustrations clearly show that the simpler singular façade is more successful and recommend this is pursued.

The reduction in the projection forwards of the public areas on the main entrance level is more successful but now points to the possibility of the upper bedroom floors being brought forward some more in order to create a minor overhang - which would be the optimum compositional relationship.

The testing of a 'full height' front elevation proved this to be a preferable strategy and the way in which this eliminates the set-back attic or mansard storey is a much more positive and confident formal strategy. The proportions of the front elevation seem also to be improved by this move.

There is still a confusion about the architectural language as the building returns around the front corners. The elevational treatment needs to be more closely tied to the floor plan and the orientation of the rooms. Some of the illustrations are apparently disingenuous - failing to show hotel bedroom windows that would need to be present on the flanks. It does not help that the plan arrangement is no longer symmetrical and the anomaly of more larger bedrooms along the northern façade needs to be cut back and the balance restored. This will clarify the formal proposition into a simpler legible arrangement - a taller front block of consistent depth attached to a secondary horseshoe of accommodation wrapping around the internal court.

The material strategy is supported, the detailing of the construction needs to be fine - the existing building is not without interest and quality in this regard and it would be good to replace it with an elegant contemporary replacement of equal merit.

Concluding Remarks

Greater simplicity and more rigor in the language and formal massing is urged - there is potentially a very refined and elegant building to be achieved here.

Landscape Officer: No objection subject to conditions

Senior Historic Environment Officer: (Received in relation to the pre-application process.) If in a conservation area it would be a key building; but why

it is not listed I do not know. It's ornamentation and external form is almost unchanged since it was built in the 1880/90s. It appears on the second edition OS County series surveyed in 1904 as five separate, but obviously very grand, houses. Witness the grand entrance on Beach Road to the southernmost building, and the interesting 2-storey 'shark's fin' projecting bay on Garfield Road on the north side. The ornamental ironwork on the first-floor bracketed cornices is near unique in its survival, and completeness. Following the First World War the trend for such grand terraces was to be amalgamated for family holidays. The building is shown as the Park Hotel in the Third Edition OS county series surveyed in 1933, and appears in Kelly's 1931 Directory, unsurprisingly, as a Commercial and family Hotel. The rear service blocks are co-eval with the main block, and the garages at the northwest are 1920s adaptations of earlier stable/coach buildings.

The only deleterious elements are, (i) the replacement windows - the northern service block has 2-over-2, and single pane timber sashes which give the form for the upper floor, for the first and ground floors; and (ii) the single-storey flat-roof front extension, which obscures the original entrances to the middle three houses; these may be inferred from the single bays between pilasters to the left of the canted bays. Its removal would be a positive boon to the townscape.

It sits in its original curtilage behind low red-sandstone dwarf walls, while these have been altered or re-built above at the south end the northern two of the five units are still the single rail and large ornate cast-iron work brackets of the original build.

Thus at the very least the building is a non-designated heritage list. But in form, quality, and survival it is better than many grade II listed buildings Torbay does have. Whatever the quality of what may be proposed a building of unique character would be lost.

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

The reception is well positioned, maximising views out and will enable passive surveillance over the restaurant terrace and control over those entering and leaving the building

With regard to the external service doors these should be designed to be as flush to the building line as possible to prevent creating recessed or concealed areas

An effective lighting scheme should be to the relevant levels as defined in BS 5489:2013 and provided by 'on building' solutions or pole mounted luminaires if possible. To assist, bollard lighting works well for demarcation of routes or supplementary lighting as part of a general design but they are not

recommended from a safety and security perspective as the limited light they do emit is generally at the wrong height to aid facial recognition.

Paignton Neighbourhood forum: The Forum has considered the proposal. As the site is within the Core Tourism Investment Area of both the Torbay Local Plan and Paignton Neighbourhood Plan the provision of improved tourist accommodation in the location proposed is welcomed in principle.

However, the Forum has the following concerns:

Impact on identity: Whilst the existing structure is not a listed building it nevertheless makes a centrally located and strong contribution to the Victorian character that sets the overall identity of Paignton's seafront that will be completely lost in the total demolition approach of the submitted design. It is recognised the existing building accommodation is no longer able to meet modern day needs of tourists. The Forum is of the view that the Victorian features of the existing façade should be retained whilst still being able to provide completely new accommodation behind it. In this way, this would help retain the heritage identity of the area as clearly expressed by the community and supported by the Neighbourhood Plan Examiner in Policy PNP1(c) whilst at the same time securing the introduction of greatly improved facilities.

Avoiding flood risk and pollution: The site is located within an area at significant flood risk from overtopping sea water and heavy rainfall. Liked to this the area is basically served by a single pipe combined sewer system at risk of being overloaded and mixing with surface and sea flood water. The increase from 46 rooms to 160 rooms will place additional pressure on the capacity of the single pipe sewer network and with it the potential for pollution of the area and overspill into the Tor Bay Marine Special Area of Conservation. It is not clear from the details so far submitted how these risks will be avoided. As such it is not considered the details provided yet meet the requirements of Policies ER1, ER2, and W5 of the adopted Local Plan and Independent Examiners support of Policy PNP1(iv) in the Paignton Neighbourhood Plan that has now reached the stage of being a material consideration.

Demolition and rebuild synchronisation: Because the site is so prominent in the seafront scene a cleared site without a committed rebuild would have a damaging effect on the image of Paignton as a tourist attraction as well as posing a risk of being a cleared site source of pollution. It is therefore requested that any consent granted requires by condition evidence to be submitted in writing and approved by the Council of a firm contract being in place for any approved rebuild before demolition is commenced. This will help minimise the risk of a vacant site for an unknown period in a very prominent location and minimise the risk of pollution from flood water into adjoining areas and the Tor Bay Marine SAC.

Summary of Representations

Twenty-two representations have been received, 11 in objection to the scheme and 11 which are in support.

The concerns raised in the objections are as follows.

- Overdevelopment/out of character with surrounding residential area/cramming
- Impact on amenity/loss of privacy/light
- Flooding/sewers
- Lack of parking
- Highway capacity
- Loss of 'historic' hotel

The letters of support state that the proposal will:

- Result in regeneration
- Provide investment
- Height is acceptable
- Bring jobs and improved tourism facilities
- Remove an eyesore
- Attract visitors

Relevant Planning History

DE/2018/0046 - demolition of an existing hotel, and its replacement with a new hotel comprising around 167 rooms and associated development.

The existing building is neither listed nor located within a conservation area, however, it is considered to be a non-designated heritage asset. Officers support the principle of demolition and redevelopment.

Planning officers support the principle of access through the southern boundary, and egress through the northern boundary, with potential pedestrian access being provided along Garfield Road, in addition to the front of the proposal. Designing the development in a flexible way, that might enable a degree of adaptability in future, as and when the local highway context develops, would seem to be a sensible approach.

Measures to increase parking capacity within the development and thus limit the impact upon nearby residential streets should be fully exploited. We accept that Paignton is relatively accessible by public transport, and that there are opportunities for public parking nearby, which may justify a lower level of on-site parking provision in this case.

Concerns have been raised previously about the proposal's potential impacts on the occupiers of properties located to the west. However, the design is evolving

and the relationship to these properties appears to be improving. Careful consideration should be given to the potential impacts on the outlook, privacy, and access to light of neighbours, in addition to the potential for noise disturbance, particularly in relation to the access arrangements, use of extractor and other plant, along with the storage and movement of refuse.

Key Issues/Material Considerations

The matters for consideration are:

1. The demolition of the existing hotel and principle of a replacement
2. Economic benefits
3. Design and impact on street scene
4. Impact on amenity.
5. Trees and ecology.
6. Flooding and drainage
7. Highways impact
8. Other Considerations
9. S106

1. The demolition of the existing hotel and principle of a replacement

As the Park Hotel is not listed and is located outside of a conservation area, the applicant could apply for its demolition under Schedule 2, Part 11 of The Town and Country Planning (General Permitted Development) (England) Order 2015. The purpose of this control is mainly to give local planning authorities the opportunity to regulate the details of demolition in order to minimise the impact of that activity on local amenity. It is considered unlikely, under the circumstances of this case, that the Council could prevent this building from being demolished, providing a developer followed the required procedure.

Given the official lack of support for listing the building, and apparent challenges in converting the existing structure, the principle of demolition and redevelopment with a replacement hotel is considered to be acceptable.

Policy SDP1 states that the role of Paignton Seafront as a leisure and employment hub will be promoted and enhanced, whilst protecting environmental assets.

As the existing use is a hotel, the proposed use is acceptable in principle. In terms of replacing the building with a new hotel, Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to increase overall spend. Proposals that make positive use of Torbay's marine environment, culture, heritage, biodiversity and Geopark are encouraged by this Policy. This Policy states that the Council wishes to see the quality of accommodation improved with a wider range of new and refurbished facilities and services. This

will be achieved by supporting the principle of new tourist accommodation, subject to compliance with other policies in the Local Plan, and the creation of new high quality tourism accommodation in sustainable, accessible locations.

The Policy states that Core Tourism Investment Areas are the main focus for investment in tourism, and this includes Paignton Seafront. These are intended to ensure the retention and improvement of sufficient high quality accommodation and attractions in order to provide the critical mass needed by a premier resort.

The new hotel would provide a larger, modern, and improved tourist facility within an area allocated for such developments within the Local Plan, and in place of a disused hotel.

The principle of development is considered to be acceptable.

2. Economic benefits

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

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

Policy TC5 (Evening and night time economy) states that the Council supports, in principle, development that helps create a vibrant, diverse evening and night time economy within the town centres, seafront and harbour areas of the Bay. The proposed hotel development would include a restaurant and terrace area which would aid in adding vibrancy and a complementary offer to that currently available in the centre, attracting people of all ages. The proposal is deemed to comply with Policy TC5 of the Local Plan.

The applicant has stated that the existing hotel would require significant investment to bring it back into use. The applicant has advised that the building suffers from the following underlying issues:

- The hotel was created from a number of Victorian terraced houses which has resulted in an inefficient and compromised layout.

- Many of the 47 bedrooms do not meet modern visitors' expectations for space - in some cases less than 10m².
- Much of the building is not accessible by lift, making wheelchair access all but impossible in many rooms.
- The ground floor, including a number of bedrooms, is below the level needed to accommodate flood risk and climate change.
- Parking dominates the sea facing frontage.

The Park Hotel has been closed for around 12 months and is now boarded up and derelict. The applicant states that the existing hotel, due to its layout, facilities, size, and condition is no longer able to meet the needs of a hotel in the 21st Century and had become commercially unviable. The new hotel planned for the site will be the first purpose-built hotel built in Esplanade Road on Paignton seafront for over 100 years.

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

The Park Hotel previously employed around 20 full time or full-time equivalent staff and some further part-time staff in the summer. The applicant states that the new hotel will create in excess of 100 new full time equivalent jobs plus additional employment during the construction phase.

The applicant's economic viability assessment states that it is anticipated that the hotel will accommodate up to 350 guests at any one time and will operate 12 months a year. The 'three star' sector is particularly buoyant at present with an influx of overseas visitors and 'stay-cationers.'

The applicant will be investing approximately £14m into the site. The economic viability assessment advises that, when adopting a conservative occupancy rate of 75%, there will be over 95,000 sleepers per annum. This could generate up to £2 million extra leisure spend per annum in Torbay. The economic viability assessment also states that the development will inject cash into the local economy through staffing, associated employment, and increased customer spend in Paignton and Torbay, which could increase the Gross Value Added (GVA) to in excess of £5m per annum.

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

3. Design and impact on streetscene

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

Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criteria 3 refers to development that helps to develop a sense of place and local identity and criteria 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location. Explanatory paragraph 4.5.27 states that sustainable communities are places where people want to live, work and relax. It continues by stating that sustainable communities are those that meet the diverse needs of existing and future residents, are sensitive to their environment and contribute to a high quality of life, they are safe and well planned, built and run. Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

A key concern, which is echoed in the representations, concerns the loss of the historic character of the existing building and the impact that the addition of a large, modern building would have on the character of the seafront.

Although the Paignton Neighbourhood Forum support improvements to tourist facilities, their comments on the application state that the complete demolition of the hotel would impact on the Victorian character and setting of the area. Whilst they appreciate that the existing level of accommodation available is unable to meet modern tourist requirements they consider that the retention of the front façade and re building behind would be a more appropriate approach to take.

The Senior Historic Environment Officer commented on the historic qualities of the existing building during the pre-application process. However, as noted earlier in this report, as the building is not Listed and is not within a Conservation Area, the applicant would be able to demolish it in full by obtaining prior notification for demolition from the Council.

The proposed building is sited to align with the building lines of properties along Garfield and Beach Road (both to the west). The front elevation is stepped slightly further forward of the existing hotel. The orientation of the proposed hotel building calls for a highly glazed principal, eastern elevation which would provide wide-reaching sea views and a higher standard of available accommodation. In

order to overcome the possibility of the building overheating the design proposes passive measures of vertical solar shading which avoids mechanical activation, has minimal impact on views from the building, and creates a strong rhythm and identity to the eastern elevation.

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

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The Paignton Neighbourhood forum have suggested that the partial demolition of the existing building with the retention of the front (east) elevation would be a more appropriate form of design. However it would not appear that this would achieve the 161 rooms proposed without a significant difference in height between the front and rear of the building i.e. the building behind the front elevation would be two storeys higher. In any case, the applicant has not offered this as part of their proposal and it is incumbent upon the Council to consider the proposal before it on its own merits.

The reception is situated on the south-east corner which is considered to be the optimal location in terms of legibility for the approach from the town, train station, public car park and one-way system. A drop-off point is also located at the main entrance which does not impact on existing car parking numbers, steps and ramps provide compliant access to the building. To the north, a direct route has been created from the green into the public restaurant and terraces utilising the existing pedestrian crossing.

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

The applicants have complied with a number of the suggestions received from the advisory Torbay Design Review Panel, however the fifth floor of the building has retained its 'set in' mansard roof rather than create a further full storey which would have resulted in a taller, more prominent building. Officers consider this to be an appropriate way to address the existing built form of the site's surroundings, and to help the proposal fit in with its surroundings.

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, 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.

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

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

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

The proposed height of the hotel represents an increase from 3 to 5 storeys, an overall additional height of 4.7m compared to the existing situation (save for the lift and kitchen extract equipment, which would be discreetly located well within the roof space, and around 1m in height). The applicant states that this increase broadly responds to the prevailing height of existing buildings on the Esplanade and is approximately 2m higher than the roof of the adjacent villa, stepping down to the terraces behind. This incorporates the loss of accommodation at ground floor and the previous basement area in order to respond to flood risk and climate change (i.e. the previous accommodation at this level is no longer appropriate due to flooding risk).

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

Conditions are recommended to secure the high quality materials proposed; a

scheme of hard and soft landscaping; refuse storage (public and private); boundary treatment; and details of any external plant equipment. Subject to these conditions, given its siting, scale, and design, the proposal is considered to be in accordance with Policies DE1, DE4, and SS11 of the Local Plan, and the guidance contained in the NPPF.

4. 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.

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

The two nearest properties are 'Sea Spray', which is occupied as tourist accommodation and 36 Garfield Road which is in use as residential accommodation, these would be most affected by the proposal.

When considering the impact on the surrounding properties, the property to the west, 'Sea Spray,' would have a separation distance of approximately 7m from its side elevation to the rear elevation of the new hotel. This property is currently separated from the site by a narrow access lane measuring around 4m in width, with the site's western boundary being formed by a wall around 1.8m in height, which, at the time of the site visit, had vegetation growing behind it to a height of around 4m. The proposal would result in a 3 storey elevation, measuring 11.7m in height approximately 7m from this side elevation of 'Sea Spray.' On the side elevation of 'Sea Spray,' at ground floor level, there is a porch and windows (relating to a dining area and bar, and to a guest bedroom), and at first floor level there are 4 windows (one relating to a bathroom, and three relating to guest bedrooms). Whilst the existing situation, with the narrow lane, stone wall, vegetation, and existing hotel beyond, is constrained, the proposal would worsen the outlook and access to light from these windows. There would also be a degree of inter-visibility between the rear windows of the proposed hotel and the aforementioned side windows at the neighbouring property.

The neighbouring property at Sea Spray is primarily a hotel use. Access to natural light and outlook is considered to be of less significance than for more sensitive uses, such as residential accommodation. It is also noted that the locality has a built-up, urban character befitting its status as a tourist resort. To the extent that the proposal would result in a loss of outlook and natural light, it is considered that it would not be unacceptable under the circumstances. The business in question may also benefit from the redevelopment of what is currently a disused site, which is likely to bring significant benefits to the area and the local tourism offer. In terms of the potential for inter-visibility between windows, a condition is recommended requiring the approval of a scheme of

obscure glazing, which would prevent any direct loss of privacy.

The side elevation of No.36 Garfield Road is around 10m from the proposed 3 storey rear elevation. This building is in use as residential flats, and the side windows facing the site are secondary windows, which either serve kitchens or are in addition to other openings serving living areas. Given the secondary nature of these windows, it is considered that the proposal would not result in unacceptable harm in terms of overshadowing or loss of outlook. However, the potential loss of privacy in relation to these residential properties, owing to inter-visibility from the proposed hotel windows, can only be acceptable if the hotel's windows, where necessary, are obscure glazed. The aforementioned condition will be imposed to secure an acceptable arrangement.

Otherwise, it is considered that the amenities of the occupiers of the properties along Beach Road and Garfield Road would not be unacceptably affected by the additional built form on the Park Hotel site, in terms of their outlook, privacy, or access to light. It is considered that the more intense use of the site would not result in any unacceptable nuisance, subject to the use of conditions to secure the details of plant and other equipment, along with a construction management plan. Most of the external activity associated with the proposed development would occur at the front of the building, off Esplanade Road. Details of the proposed vehicular access and egress points are still under consideration, and Members will be provided with an update at the committee meeting. Officers favour an arrangement that sees vehicles enter and leave the hotel through the site's northern and southern boundaries and, under these circumstances, it is considered that the proposal would not result in unacceptable nuisance to the amenities of neighbours, over and above the existing situation.

Subject to the use of conditions, given the proposal's siting, scale, design, and relationship to neighbours, it is considered that the proposal would not result in unacceptable harm to the amenities of existing residents or hotel guests. As such, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

5. Trees, and Ecology

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features. The existing Torbay palms and shrubs situated along the frontage of Esplanade Road are to be removed with replanting proposed to mitigate the loss.

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

The submitted landscaping information shows proposed hard and soft landscaping along the frontage of Esplanade Road, with terracing, steps, tree

and shrub planting. This includes semi-mature feature tree planting which is considered to contribute to the visual amenity of the seafront.

The Council's Landscape Officer has advised that the inclusion of multi-stem trees on the terraces is not unreasonable but the species selection requires amending to provide trees which would be more suited to the conditions. A condition will be employed to secure a scheme of appropriate hard and soft landscaping.

In terms of the ecological value of the site, a Protected Species Assessment Report has been submitted. Although no protected species were found on the site, mitigation for loss of potential bird nesting locations within the building and within the garden area is suggested in the form of three bird boxes which are to be located on the north facing aspect at a height of between 2 and 4 metres. Further mitigation suggested is that no works take place which would affect potential bird nesting habitats during the bird breeding season unless a suitably qualified ecologist has carried out an inspection prior to works commencing.

The construction phase would result in the loss of a number of potential roost features which are present on the existing building, however as these features are only likely to support individual or low numbers of bats, the proposal is therefore considered unlikely to significantly affect local bat populations. Suitable replacement roosts would be provided through the installation of two bat tubes (Schwegler 2F or similar approved) at a height of at least 5m on south-east and south-west aspects of the new hotel.

Roosting, foraging and commuting bats could be affected by lighting on the exterior of the new hotel. In order to mitigate any potential negative effect, the proposed lighting design would need to avoid direct illumination of the locations of the bat tubes.

The additions of the bird boxes and bat tubes suggested in the applicant's Protected Species Assessment Report shall be conditioned to be affixed to the new hotel, prior to its occupation, should permission for the application be granted.

An addendum to the Protected Species Assessment Report dated 17.10.2018 has been submitted which considers the impact of the proposal on the Lyme Bay and Torbay Marine SAC. The addendum states that appropriate pollution control measures (for both water and air) would be applied in accordance with Defra guidelines throughout the construction phase and where appropriate, method statements would be followed for high-risk activities, such as refuelling and use of concrete. With these measures in place, there would be no likely adverse effects on the SAC as a result of the potential spread of dust, sediments or other water or air borne pollutants.

No changes to the water quality of the surface water runoff are anticipated post construction. The proposed Surface Water Strategy is to manage runoff from the site by means of an attenuated discharge to the culverted overflow from the Victoria main river with a rate of discharge, which will be reduced when compared to the baseline and limited to greenfield rates up to maximum of the 1 in 10-year event.

In their consultation response, South West Water advised that they had no objection to the proposals. It is therefore assumed that there is sufficient capacity within the existing foul sewer infrastructure to accommodate the new hotel and that there would be no adverse effect on the SAC as a result of increased demand on the existing sewer network.

The Council has undertaken a Habitat Regulation Assessment screening, which has confirmed that there would not be a Likely Significant Effect on the Lyme Bay and Torbay SAC.

In light of the foregoing, and subject to the use of those conditions referred to, the proposal's ecological impacts are considered acceptable, having regard to Policies C4 and NC1 of the Torbay Local Plan.

6. Flooding and Drainage

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

Objections and comments from the Paignton Neighbourhood Forum have raised concerns in relation to the sewer capacity in the area, however South West Water and the Environment Agency have not raised objections to the proposal.

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

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

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

The Environment Agency, South West Water and the Council's Drainage Officer have raised no objections subject to the use of conditions requiring adherence to the submitted FRA and the approval of a flood management scheme.

Subject to the use of the aforementioned conditions and the completion of a legal agreement to secure contributions towards flood mitigation, the proposal is considered to be acceptable, having regard to Policy ER1 of the Torbay Local Plan, the NPPF, and the PPG.

7. Highway Impact

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

Objections received have referred to concerns with regards to the lack of parking space that would be provided by the development.

The proposal includes a parking area at lower ground floor level, which would include 52 car parking spaces. Details of the proposed vehicular access and egress points are still under consideration at the time of writing, and Members will be provided with an update at the committee meeting. Officers favour an

arrangement that sees vehicles enter and leave the hotel through the site's northern and southern boundaries and, under these circumstances, it is considered that the proposal would not result in unacceptable harm to highway safety or amenity.

Concerns over the level of parking provided have been raised by the Council's Strategic Transport Officer, however this could be overcome through a commitment from the applicant and agreement from the Council that spaces would be able to be secured within the public car park on Garfield Road. A traffic regulation order would also be needed to ensure there is no adverse impact on surrounding roads. Conditions are proposed to secure these arrangements, along with a Travel Plan to encourage the use of sustainable modes of transportation.

Some matters require further consideration and an updated Transport Assessment is awaited. For instance, an alternative location for the loading bay will be required and negotiations are on-going to find a suitable solution. Members will be provided with an update during the committee meeting.

A section 278 agreement will be required for the necessary works to the highway and a traffic regulation order would be required in relation to parking restrictions, the siting of the loading bay and the change to the lane at the rear of the hotel to make it one way.

Subject to further negotiations and information to comply with the above requirements, and outcomes that satisfy the Council's Highways and Strategic Transport Officer, it is considered that the proposal would not result in unacceptable harm to highway safety or amenity, and would be in accordance with Policies TA2 and TA3 of the Local Plan.

8. Other Considerations

The Paignton Neighbourhood Forum have suggested that the demolition and rebuild be synchronised, planning permissions for applications which involve the demolition of a heritage asset within a prominent site in a conservation area usually include a condition for a contract of works to ensure that the site is not left vacant. However in this instance the site is outside of a conservation area and, subject to the approval of this application, the applicant wishes to begin demolition imminently. As the site relates to an unprotected building outside of a conservation area, and given that its demolition could be authorised through the Permitted Development Regulations, it is not considered that this would be a necessary condition to add in this case.

9. S106

The Council's Drainage Engineer has advised that a financial contribution towards flood defences on Paignton seafront will be required. The contribution to the Paignton and Preston Coastal Defence Scheme is based on the area

protected behind the existing sea wall for the 1 in 10 year storm event plus 50 years of climate change. This storm event has been chosen as the design horizon of the scheme is for 50 years of climate change.

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

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

Paignton = 165,153m²

Preston = 33,605m²

Total flooded area = 198,758m²

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

$3,750,000/198,758 = £18.87/m^2$

The overall site area for the proposed development at the Park Hotel in Paignton is 2,834m². Therefore the required financial contribution from the development towards the coastal defence scheme is as follows:

$2,834m^2 \times £18.87 = £53,477.58$

Subject to this sum of money being secure through the completion of a Section 106 agreement, the proposal is considered to be acceptable.

Community Infrastructure Levy

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

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 assessment of the proposal has been undertaken having regard to the emerging Neighbourhood Plan, including the following policies: Policy PNP1(c) (Design Principles), PNP1 (Surface Water), PNP2 (Town Centre), PNP3 (Paignton Harbour), PNP4 (Seafront) PNP14 (Core Tourism Investment Area) & PNP15 (Flood and Sea Defence). These require development to be in keeping with the surroundings in terms of scale, density, height, design and landscaping, to prevent development increasing flood risk and provide improved tourist

facilities. As per the foregoing assessment exercise, on balance, the proposal is considered to be acceptable.

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

Conclusions

The proposal would result in the modernisation of the existing site, with a significantly improved hotel and leisure facility. It is considered that the proposal would deliver visual, economic, and regeneration benefits in what is a Core Tourism Investment Area, and none of the harm identified is considered sufficient to outweigh these benefits. Subject to the completion of a legal agreement; compliance with planning conditions; and the satisfactory negotiation of any outstanding highways/transport matters, the proposal is considered to be acceptable, having regard to the Local Plan, and all other material considerations.

Condition(s)/Reason(s)

01. The finished floor levels of the development shall accord with the levels shown on plan reference 4255-KE-ZZ-ZZ-DR-A-(32)003- 5.

Reason: In the interests of visual amenity of the surrounding area, in accordance with policy DE1 of the Torbay Local Plan.

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

Reason: In the interests of the visual amenities of the area, in accordance with policy DE1 of the Torbay Local Plan.

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

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

04. Prior to commencement of use of the development hereby approved details of a lighting strategy in respect of illumination of the building and lighting of the public realm and associated areas shall be submitted to and approved in writing and thereafter implemented in accordance with the approved details. The development shall thereafter be undertaken in accordance with the approved details and shall be retained as such indefinitely.

Reason: To ensure that the architectural quality of the building and its setting is highlighted through an appropriate scheme of lighting, and to comply with Policies DE1 and DE3 of the Adopted Local Plan.

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

Reason: In the interests of managing flood risk to occupiers in accordance with the National Planning Policy Framework, and to comply with Policies ER1 and

ER2 of the Adopted Local Plan.

06. Prior to the first occupation of the new hotel 2 Schwegler type 2F or similar and 3 bird nest boxes and 3 Schwegler type 2F bat boxes shall be installed (in accordance with manufacturer's instructions for correct siting and installation) on the new hotel and retained at all times thereafter, in-line with the mitigation measures outlined with the Protected Species Assessment Report (lead ecology) dated August 2018.

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

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

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

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

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

09. The development shall not be occupied or brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway. The s278 works shall include a build out on Beach Road; build outs on the rear access road for visibility; a traffic regulation order for the 'one-way' on the rear access road; and for alterations to parking on Beach Road. The development shall not be occupied or brought into use until the s278 works have been implemented in full to the satisfaction of the Local Highway Authority.

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

10. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statements shall provide for:

- a) A demolition method statement
- b) The parking of vehicles of site operatives and visitors.
- c) Loading and unloading of plant and materials.
- d) Storage of plant and materials used in constructing the development.
- e) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- f) Wheel washing facilities.
- g) Measures to control the emission of dust and dirt during construction.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays. The approved Statements shall be adhered to throughout the construction period of the development that they relate to.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

11. Prior to the hotel being brought into use, the parking facilities and electric charging points shown shall be provided and thereafter permanently retained for the parking of vehicles in accordance with plans to be submitted to and approved by the Local Planning Authority pursuant to condition P1.

Reason: To ensure adequate parking facilities are provided to serve the

development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

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

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

13. Prior to the first occupation of the development hereby permitted, the refuse and recycling facilities shown on the approved plans shall be provided. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

14. Prior to any works above damp proof course level, details of a scheme of obscure glazing in relation to the windows on the rear elevation of the hotel (western elevation) shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail how overlooking into the windows of 'Sea Spray' and 36 Garfield Road will be minimised. The approved obscure glazing shall be implemented in full prior to the first use of the associated hotel rooms, and shall be retained as such at all times thereafter.

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

15. All plant and equipment including refrigeration plant and extraction equipment shall be designed, installed, maintained and operated so as to not be more than 5dB below background noise levels at the façade of the nearest sensitive accommodation when measured and rated using BS4142:2014 Methods for rating and assessing industrial and commercial sound. Reason to protect residential amenity of neighbouring residential accommodation.

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

16. A Risk assessment as identified in the guidance document Guidance on the control of Odour and Noise from Commercial Kitchen Exhaust Systems shall be submitted together with the proposed method of mitigating any odour created to the local planning authority for approval prior to the commencement of works above damp proof course level. Additionally, any proposed works shall be in

compliance with the HVCA guidance DW172 – Specification for Kitchen Ventilation Systems.

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

17. No development (including demolition and ground works) or vegetation clearance works shall take place until a Scheme that includes the following components to deal with the risks associated with contamination of the site have been submitted to and approved in writing by the Local Planning Authority:

- 1) A preliminary risk assessment which has identified:
 - all previous uses;
 - potential contaminants associated with those uses;
 - a conceptual model of the site indicating sources, pathways and receptors; and
 - potentially unacceptable risks arising from contamination on the site.
- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the Local Planning Authority. The Scheme shall be implemented as approved.

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

Reason: To minimise contamination risks to future users of the site and surrounding land, including controlled waters, and to ensure the development can be carried out safely in accordance with Policy ER3 of the Adopted Torbay

Local Plan 2012-2030. These details are required pre-commencement as specified to ensure that contaminated material is not released into the environment from building operations and there are no risks to workers, neighbours or other receptors.

Informative(s)

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003. The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

Relevant Policies

- DE1 - Design
- NC1 - Protected sites - internationally important
- TO1 - Tourism, events and culture
- TA2 - Development access
- TA3 - Parking requirements
- DE4 - Building heights
- DE3 - Development Amenity
- C4 - Trees, hedgerows and natural landscape
- SS1 - Growth Strategy for a prosperous Torbay
- SS4 - The economy and employment
- TC5 - Evening and night time economy
- SDP1 - Paignton

Application Number

P/2018/0184

Site Address

Astoria Court
5 Belle Vue Road
Paignton
TQ4 6ES

Case Officer

Mr Alexis Moran

Ward

Roundham With Hyde

Description

Conversion of existing building to form 5 houses and 5 apartments, including: demolition of existing extensions, erection of two-storey and first-floor extensions, installation of three new dormers, and formation of pitched roof over existing flat roofed outbuilding.

Executive Summary/Key Outcomes

The application seeks permission for the creation of 5 houses and 5 apartments, along with associated development, including a 16 space car park and associated amenity space.

The site includes a key building within the Roundham and Paignton Harbour Conservation Area.

Whilst the application proposes some positive alterations to the original property, including the restoration of some of the original features, the extension to the east of the original building, which includes a two-storey element, is deemed to be of an excessive length and scale. The extension would be wider than the original building and rather than being subservient to it, would appear to be overly dominant, resulting in harm to the character and appearance of the original property. The proposal would neither preserve nor enhance the character of the conservation area. The proposal is therefore deemed to be contrary to Policies SS10 and DE1 of the Torbay Local Plan 2012-2030.

Recommendation

Refusal

Reason for Referral to Development Management Committee

The proposal is a Major development.

Site Details

The site includes a large, two-storey, brick, render and tile-hung building, which is currently in use as 15 holiday units and 5-bedroom owners accommodation, along with its curtilage.

The main building of Astoria Court has been altered and extended with a two

storey flat-roofed block to the south-east corner and a two-storey, pitch-roofed 20th Century extension to the east, which is attached to the main, original building by a single-storey link block. The main building is set back by some 40m to the east of Belle Vue Road.

A large sandstone wall forms the western boundary of the site with a detached garage located to the south of the main entrance, which is partially attached to the boundary wall.

The site is within the Roundham & Paignton Harbour conservation area; an area Tree Preservation Order covers the site.

Detailed Proposals

The application seeks permission for 5 houses and 5 apartments, with 16 car parking spaces within the application site, and associated amenity space.

The existing detached garage on the western boundary of the site is to be converted and extended with the addition of a pitched roof, to provide a single unit. This is illustrated on the submitted plans as unit 1.

The original part of the house will be divided to form 5 apartments (Units 2-6). This would involve the addition of roof-lights to the north-eastern, or principal, elevation and three small, pitch-roofed dormers to the rear, south-western elevation of the original building.

The two-storey, twentieth-century extension to the east would be extended to its rear with a two-storey extension of 3m in length and 8.5m in width. The height of the extension has been amended during the application process to be the same height as the existing. The proposed extension to the east would include three pitch-roofed dormers, punctuating through the eaves level. The extension would form three 2-bed houses (units 7-9).

The existing single-storey link is to be increased by a storey. The overall length of the extension to the east would therefore read as one attached structure to the original property measuring 16.7m in length.

An octagonal roof is to be added to the two storey flat roof extension to the rear of the original dwelling (to its south-west) which is to be remodelled to form a 1-bed house (Unit 10).

Unsympathetic windows in the existing extensions are to be replaced with windows appropriate to the character of the original property and the wider conservation area.

There would be around 297m² of floor space demolished, with 454m² of new build. This gives a total additional floor area of 157m².

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

Drainage Engineer:

Providing the surface water drainage is constructed in accordance with the submitted hydraulic design there are no objections on drainage grounds.

Highways:

No objection

Historic England:

No comment

Conservation Officer:

There are indeed some good things in this application however this does not overcome the objections to the replacement wing for later 20th century extension. It is worth repeating that under Policy SS10 we would normally be seeking the complete removal of the wing without replacement.

The reduction in ridge height of units 8 & 9 is welcome, especially against the south-east elevation gable (drwng 3841-104 B-P1). However the sheer length of the rear roof, against that of the main block (the original building) in proportion of 55:45 clearly shows this to be excessive and another argument for reducing units 7, 8, & 9 from three to two here, and probably altering the roof line between the two units.

The rear extensions to the new units 8 & 9 add nothing to the building except a new and unwelcome form; they remain aesthetically unpleasing and are

particularly overbearing to bedroom two and the private amenity space of unit 2.

The windows of the original proposed gable end on the south east return were alien in form to all other windows, but we did not ask for their removal. This is welcome and simply reflects a better understanding of the obvious geometry at the point of attachment.

The scale of the redevelopment at the rear: an insistence on 3 units instead of 2. The excessive length of these three units whether viewed from the front (north-east elevation) or the rear (south-west elevation) highlights the lack of subservience of the new work to the old. These units as here proposed neither enhance the original key building nor the wider Roundham & Paignton Harbour conservation area.

Arboricultural Officer:

The tree protection plan defines adequate protection zones for the dominant trees on site and should be an approved document for implementation as part of any consent.

The proposed landscape plan indicates suitable shrub and lower plant proposals for the site and positions trees in suitable locations. Greater detail of planting pits, table of prescriptive watering volumes, mulching, staking and so on will be required. Also tree sizes proposed are small and should be a minimum of 12-14cm girth and of rootballed or containerised stock type. BS.8545 contains expansive details on tree planting and establishment.

Recommendation

That the scheme be suitable for approval on arboricultural merit however greater detail is required for the soft landscape elements as noted above.

Police Architectural Liaison Officer:

From a designing out crime, fear of crime and disorder perspective the Police raise no objections to the proposal

Strategic Transport:

No comments received.

Summary Of Representations

1 letter of objection has been received. Issues raised by the objectors:

- The lodge to the front of the site is out of keeping with the building line.

Relevant Planning History

DE/2017/0185 - Change of Use from Holiday Units with Owners Accommodation to 9 Self Contained Residential Units; the applicant was provided with a positive response to the proposal for 9 units.

Key Issues/Material Considerations

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

1. Principle of the development
2. Visual impact
3. Amenity
4. Drainage
5. Ecology and trees

1. Principle of the 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 historic use of the building is as holiday apartments with owner's accommodation. The site is located outside a Core Tourism Investment Area. Policy TO2 (Change of use of tourism accommodation and facilities) states that the change of use of holiday accommodation or facilities outside Core Tourism Investment Areas will be permitted where:

1. The holiday character of the area and range of facilities and accommodation are not undermined; and
2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; or it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TO2 also requires that where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Additionally, a high priority will be given to restoring the character and appearance of buildings within conservation areas.

It is considered that the proposed conversion from holiday accommodation to residential would not significantly undermine the holiday character of the area or the range of holiday facilities. It is also considered that the proposal would bring other benefits, such as the provision of housing to help address the shortfall in the Council's 5 year housing land supply. The proposal has the potential to enhance the original property by restoring some of its historical character and this will be assessed in further detail later in this report. In principle, the proposed change of use is acceptable.

2. Visual impact

Policy SS10 of the Torbay Local Plan 2012-2030 states that developments within the conservation area should preserve or enhance its character; this is in compliance with the NPPF. Indeed Paragraph 193 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

Policy DE1 states that development should be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.

The proposal would involve amending and improving a number of unsympathetic extensions to the original building and the restoration of the period detail of the property with the porch to the entrance of the building being reinstated to its original width. The materials proposed in the external finish are in keeping with the original property. Unsympathetic windows are to be replaced with windows appropriate to the character of the original property and wider conservation area.

However, whilst the length of the original building is 14m, the length of the enlarged eastern extension to the east would be 16.7m. The extension would therefore be greater in length than the original property and therefore would not appear as a subservient addition.

The excessive width and built form associated with the enlarged extension to the east of the original building, and the two storey extension to the rear of it, would have an over-dominant impact on the character and appearance of the original building, which is designated as a key building in the conservation area.

Officers have attempted to find a positive solution to this by advising that the extension to the east should be reduced in scale, resulting in the development reducing from 10 units to 9. However, in this instance, the applicant has advised that they wish the development to be determined for the scheme of 10 units.

It should be noted that applying Policy TO2 in full would result in the requirement to remove all unsympathetic extensions to the original property, which would leave just the original building to be subdivided.

For the reasons mentioned above, it is considered that the proposal would result in an unsympathetic addition to the original property, which would neither preserve nor enhance its original character, or the character of the wider Roundham and Paignton Harbour conservation area. As such it is deemed to be contrary to the requirements of Policies SS10, DE1 and TO2 of the Torbay Local Plan 2012-2030.

It is considered that the proposal would lead to 'less than substantial harm' to the significance of a designated heritage asset which would not be sufficiently

outweighed by public benefits. Therefore the proposal would be contrary to Paragraph 193 of the NPPF.

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.

The proposed development would have a limited impact on the amenities of occupiers of nearby properties in the area.

However, it is considered that the standard of accommodation for some of the proposal's occupiers would be compromised. The combination of the single storey increase to the existing link building and the additional two-storey extension to the rear of the extension to the east of the original building, would result in dominant additions in relation to Unit 2. The proposal would result in a poor outlook and lack of natural light in relation to this unit, particularly its amenity space. Moreover, the window in the side elevation of the rear extension of unit 8 would result in overlooking to unit 2 and its external amenity space.

There are also potential amenity issues in relation to the communal gardens to the front of unit 6 which may result in conflict with users of the garden and occupiers of the unit. However, these concerns could be overcome by securing appropriate boundary treatment and landscaping.

As the proposal would result in what is considered to be a poor standard of accommodation for some of the proposed units, it is considered to be contrary to Policy DE3 of the Local Plan.

4. Drainage

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 Council's Drainage Engineer has confirmed that the proposed method of draining surface water run-off is acceptable. The proposal is therefore deemed to comply with Policy ER1 of the Local Plan 2012-2030.

5. Ecology and trees

In terms of ecology, the submitted Protected Species Assessment states that no bats or breeding birds were found on the site or within the buildings. However any building works should follow the standard recommendations with regards to

checking for bats prior to construction and the halting of works in proximity to any bats found should be undertaken.

No works involving the removal of hedges should occur during the bird nesting season.

With regards to trees, the Council's Arboricultural Officer has confirmed that the proposed tree protection measures are acceptable, as is the proposed shrub planting. If the application were to be approved, additional soft landscape details and the proposed protection measures would be secured by condition.

Other considerations

The proposed parking and manoeuvring areas largely follow the existing situation, and are considered to be acceptable and comply with Policy TA3.

The proposal would include cycle storage and bin store areas.

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 broadly complies with the policies within the Paignton Neighbourhood Plan.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106/CIL -

S106:

Not applicable.

CIL:

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

EIA:

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

Conclusions

The proposed extension to the east of the original property, by reason of its size, siting and design, is considered to be an uncharacteristic and overly dominant addition and is deemed to be detrimental to the character of the original property and the wider conservation area. It is also considered that the proposal would result in substandard living accommodation for some of the proposal's future occupiers. As such, the proposal is considered to be contrary to Policies DE1, DE3, SS10, and TO2 of the Local Plan, and the guidance contained in the NPPF.

Condition(s)/Reason(s)

01. The proposed extension to the east of the original property, by reason of its size, siting and design, is considered to be an uncharacteristic and overly-dominant addition that would be detrimental to the character of the original property and the wider conservation area. The proposal therefore fails to preserve or enhance the character and appearance of the conservation area, contrary to policies DE1, SS10, and TO2 of the Torbay Local Plan 2012-2030. The proposal would result in less than substantial harm to a heritage asset and insufficient public benefits have been demonstrated to outweigh this harm, contrary to the guidance contained in the NPPF.
02. The combination of the single-storey increase to the existing link building and the additional two-storey extension relating to the rear of units 8 & 9, would result in dominant additions, overlooking and loss of light to the potential future occupiers of unit 2. As such, it is considered that the proposal would not provide an adequate standard of living accommodation to some of the proposal's future occupiers, contrary to Policy DE3 of the Torbay Local Plan.

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/has not worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, in the event the applicant was unable to satisfy the key policy tests of Policies DE1, DE3, SS10, and TO2 in the submission and as such the application has been refused.

Relevant Policies

DE1 - Design

DE3 - Development Amenity

SS11 - Sustainable Communities Strategy

SS10 - Conservation and Historic Environment

ER1 - Flood Risk

ER2 - Water Management

NC1 - Protected sites - internationally import

TO2 - Change of use of tourism accommodation

TA3 - Parking requirements

Application Number

P/2018/0348

Site Address

The Anchorage
Headland Road
Torquay
Devon
TQ2 6RD

Case Officer

Mr Robert Pierce

Ward

Cockington With Chelston

Description

Replacement dwelling (variation of condition P1 of original planning permission P/2015/0986) - To raise roof height, extend area enclosed by glazed balustrade above rear garden level accommodation and installation of 4 air conditioning units and a flue to the rear of the garage/cinema room on the side (west) elevation.

Executive Summary/Key Outcomes

Planning permission was granted in 2015 for the demolition of a traditionally designed two storey dwelling and its replacement with a large contemporary styled detached, three storey dwelling and attached double garage (with cinema room over).

In September 2017 an Enforcement Complaint was received that the new dwelling was being built higher than the approved plans indicated.

The Enforcement Team arranged for measurements to be taken and it was confirmed that the two main top floor roof elements had been raised by approximately 52.8cm and 47cm together with other lesser discrepancies at the lower roof levels.

This retrospective planning application is intended to vary the permission previously given and shows "as built" drawings. These drawings also include the installation of 4 air conditioning units and a stainless steel flue on the SW elevation to the rear of the cinema room, along with a gas flue to the rear of the garage. The drawings also indicate that the approved area enclosed by glazed balustrading has been extended out to include the full perimeter of the roof of the rear single storey garden level accommodation.

Several representations have been received from neighbours and the application was the subject of a Site Review Meeting on Tuesday 11th September 2018 (Councillor Amil in attendance) when it was agreed with Officers that the application should be considered by the Development Management Committee.

Recommendation

Approval (Conditions at the end of the Report)

Site Details

The site comprises a large contemporary dwelling which has almost been completed and is well set back from the road frontage on the south side of Headland Road. This house has replaced a large conventional detached dwelling, the original plot of which has been sub-divided. It shares a communal driveway with a new dwelling (allowed at appeal) which was built about 9 years ago. The property has a very large rear garden which is level and extends some 26 metres to the edge of "Broken Cliff" and the sea below. The rear garden to the property (together with the adjoining properties) is located within the Coastal Change Management Area. The side boundaries to the rear garden are screened by hedging and shrubs and is open to the cliff edge. There are slight variations in the heights of the properties along the seaward side of Headland Road but differences are not significant as the plots are all reasonably level.

Detailed Proposals

This Section 73 application seeks to vary the plans approved as part of planning permission P/2015/0986. There are three elements to this retrospective application, as follows:

- a) The raising of the height of the completed dwelling from that indicated on the approved plans. The applicant has stated that the increases in height are to accommodate additional insulation for energy efficiency purposes.
- b) The addition of 4 air conditioning units and a flue to the rear of the garage/cinema room on the side (west) elevation.
- c) The increase in the area of flat roof enclosed by the glazed balustrading above the rear garden level accommodation.

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

Community Safety:

Prior to beneficial use, the applicant shall submit details of all plant and equipment installed, including noise levels and predicted noise levels at the nearest noise sensitive accommodation for approval by the local Environmental Health Department.

Summary Of Representations

Six Letters of objection were received from the immediate neighbours. The main issues raised as follows:

- Overbearing impact
- Erosion of privacy
- Shading of the neighbours solar panels
- Loss of light
- Decorative parapets could be removed without affecting the internal structure
- Visual impact of Air Conditioning units
- Use of first floor balcony/terrace

Relevant Planning History

2017/0260/EN Enforcement Complaint in respect of height of the dwelling under construction.

P/2015/0986 Replacement Dwelling Approved 7.03.2016

DE/2015/0217 - Pre Application Enquiry - Redevelopment with replacement dwelling (similar to the current proposal). Positive response at Peer Group Review 9th June 2015

P/2010/1288 - Replacement dwelling at "Overcliffe", Headland Road - Approved 6.01.2011

P/2010/1393 - Replacement dwelling at "South Cliff", Headland Road - Approved 8.2.2011

Key Issues/Material Considerations:

Principle of Development:

This is a retrospective proposal for works that have increased the height of the approved dwelling together with the installation of 4 air conditioning units, a gas flue and the repositioning of an area of glazed balustrading. The principle of residential development at the site is already established and the proposal is therefore considered to be acceptable in principle.

Impact on character and appearance of the area:

Policy DE1(Design) of the Torbay Local requires development to be well-designed and should acknowledge local character and relate to the surrounding built environment in terms of scale, height and massing.

Given that planning permission has already been granted and implemented for a new dwelling, this report is concerned with the effect of the changes now being proposed. The dwelling is relatively large and it is visible from distant views along Torbay Road and across from Livermead. From such distant views the modest increase in height is not obviously discernible from what was originally approved. Notwithstanding the changes being proposed, it is considered that the proposed dwelling sits quite comfortably within the plot and does not have any unacceptable impacts on the character and appearance of the general area.

Given the siting, scale, and design of the proposed changes, the proposal is considered to be in accordance with Policy DE1 of the Torbay Local Plan.

Impact on neighbour amenity:

Policy DE3 (Development Amenity) of the Torbay Local Plan seeks to achieve development which does not unduly impact upon neighbour amenity. Development should be assessed using such criteria such as impact of light, noise and whether the scale is overbearing.

Representations regarding the impact of the increase in height of the approved dwelling have been considered. The roof of the cinema has been raised by around 22.3cm and the western side of the flat roof to the first floor has been raised by approximately 18.7cm. Both of these elements are set back off the boundary with the adjoining property "Yellow Tubs" by 3.5m and 1.5m respectively. Whilst clearly higher than approved, it is considered that the relatively small increase in height of these elements has not resulted in any adverse overbearing impacts on the neighbouring properties. The height of the main central atrium feature has been raised by 52.8cm and the roof of the remaining top floor accommodation to the side and rear has been raised by 47.2cm. The top floor of the dwelling has a smaller footprint than the lower floor levels and is set further away from the properties either side. It is not considered that the increase in height of the top floor has any adverse impact on these properties.

The property opposite the new dwelling, known as "Portafino", is set down at a lower level in what was part of the garden to the original property. The central "curved" atrium feature is set back from "Portafino" by at least 15 metres. The approved height of the roof for this element was 10.5 metres and the built height is now 52.8cm higher. Whilst there is intervisibility between both properties, on balance, it is not considered that an increase in height of approximately 5% has resulted in an unacceptable overbearing impact or loss of natural daylight. The remaining area of the top floor roof has been raised by 47.2cm and is set back a further 4 metres. It is considered that on balance the increased roof heights do not

have any adverse impact on the occupiers of "Portafino". The proposed changes have not resulted in any additional impacts on the privacy of those occupying this neighbouring property.

The 4 air conditioning units have been mounted on the flat roof of the garage and area attached to the rear of the wall of the cinema room on the western elevation. They are partially screened by a parapet wall. A stainless steel boiler flue has also been mounted to the rear of the garage wall. The air conditioning units and the flue face the side boundary to the property next door to "Yellow Tubs". The party boundary is defined by a 2 metre high rendered wall. From the garden level of "Yellow Tubs", the flue is visible above the boundary wall but the air conditioning units are almost fully screened by the parapet wall. They are however visible when looking down from "Yellow Tubs" itself which stands at a higher level. The air conditioning units and flue are of a domestic scale and whilst they are positioned in close proximity to the party Boundary with "Yellow Tubs" they are not considered to be visually intrusive. Subject to acceptable noise levels, to be achieved by way of condition, then the 4 air conditioning units and flue are considered to be acceptable and do not have any adverse impact on neighbour amenity.

The area of flat roof over the rear garden level accommodation enclosed by glazed balustrade has been extended out to enclose the whole of the roof area. The approved plans indicate the balustrading was to be set back by 2 metres from the rear edge of the roof with an area of roof garden beyond. A condition was attached stating that the roof garden area should not be used for sitting out purposes and should only be accessed for maintenance purposes.

It is not considered this has resulted in any adverse visual impact and the agent has confirmed that this was done to afford safe maintenance of the roof garden. The main concern from the neighbours is that this could result in the whole area roof being used for a sitting out/amenity area. In this respect the same condition will still apply which prevents the roof garden from being used as a sitting out area. Extending the area enclosed by the glazed balustrade therefore does not have any adverse impact on the amenity of the neighbours.

In terms of the proposal's impacts on neighbours, the increase in height of the approved dwelling, the installation of the 4 Air Conditioning Units and the gas flue together with the extension of the glazed balustrading meets the criteria of Policy DE3 of the Torbay Local Plan.

Loss of direct sunlight:

It is noted that the neighbour opposite at "Portofino" is concerned that the increased height interferes with solar rays beaming onto Thermal Solar Panels that have been installed on that property. It is considered that the proposed changes would not result in sufficient change, over and above what was previously approved, to result in unacceptable effects.

Impact on the Coastal Change Management:

Policy C3 (Coastal Change Management) of the Torbay Local Plan states that one of the key considerations in assessing a proposal in the Coastal Change Management Area is whether it will adversely affect the natural environment and whether it will have any impact on landscape and views.

The dwelling is well set back from the edge of the cliff to the rear and from a distant view the increase in height will not be easily discerned and therefore it is not considered that the development will detract from the unspoilt character and appearance of the coastal area.

The increase in height is considered to meet with the criteria of Policy C3

Other Considerations:

This assessment has been undertaken having regard to the provisions of the emerging Torquay Neighbourhood Plan.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

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

The increase in height of the approved dwelling, together with the air conditioning units, gas flue and revised layout of the glass balustrading are considered to be acceptable and without unacceptable detriment to the amenities of neighbouring occupiers or the character or appearance of the locality. The proposal is considered acceptable, having regard to the Local Plan and all other material considerations.

Condition(s)/Reason(s)

01. The development shall be carried out in strict accordance with the Geology Report approved pursuant to condition 1 of planning permission P/2015/0986/PA.

Reason: In the interests of assessing the impact of the proposal on the Coastal Change Management Area and in order to accord with Policies C3 and ER4 of the Torbay Local Plan 2012-2030.

02. The development shall be carried out in strict accordance with the Geology Report approved pursuant to condition 2 of planning permission P/2015/0986/PA.

Reason: To mitigate the potential risks associated with development in close proximity to a cliff and in order to accord with Policies C3 and ER4 of the Torbay Local Plan 2012 - 2030.

03. Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking and re-enacting that order) no development of the types described in Schedule 2, Part 1, Classes A -F shall be carried out without the prior consent of the Local Planning Authority.

Reason: The site is in close proximity to neighbouring properties and within the Coastal Protection Zone and so the Local Planning Authority will need to maintain control over all of the cited developments in the interests of the amenities of the surrounding properties and to accord with Policies DE1, DE3 and C3 of the Torbay Local Plan 2012 - 2030.

04. Within 8 weeks of the date of this planning permission, the applicant shall submit details of all external plant and equipment installed, including noise levels and predicted noise levels at the nearest noise sensitive

accommodation, to the Local Planning Authority for its approval in writing. Any external plant or equipment shall be installed in accordance with the approved details, and shall be retained as such.

Reason: In the interests of protecting the residential amenity of the adjoining occupiers and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

05. Privacy screens, measuring 1.8metres in height from the floor level of both ends of the second floor level roof terrace, extending 3.210 metres as indicated on approved drawing "1305.11e", shall be installed prior to first use of the second floor roof terrace hereby approved. The screens shall be obscure glazed to at least Pilkington Level 5 or equivalent. The screens shall then at all times be retained unless otherwise agreed in writing by the Local Planning Authority.

Reason: to ensure that the privacy and general amenity of the neighbouring occupiers is preserved and to accord with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

06. The development shall be carried out in strict accordance with the external materials approved pursuant to condition 6 of planning permission P/2015/0986/PA.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policy DE1 of the Torbay Local Plan 2012-2030.

07. The outer area of flat roof above living/breakfast room identified as roof garden on approved drawing no.1305.11e shall not be used for sitting out and shall only be accessed for maintenance purposes unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of residential amenity and to accord with Policy DE3 of the Torbay Local Plan 2012-2030.

08. The development shall be carried out in strict accordance with the Flood Risk Assessment approved under planning permission P/2015/0986/PA, and the Drainage Strategy approved pursuant to condition 4 of planning permission P/2015/0986/PA.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 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

C3 - Coastal change management

H1 - New housing on identified sites