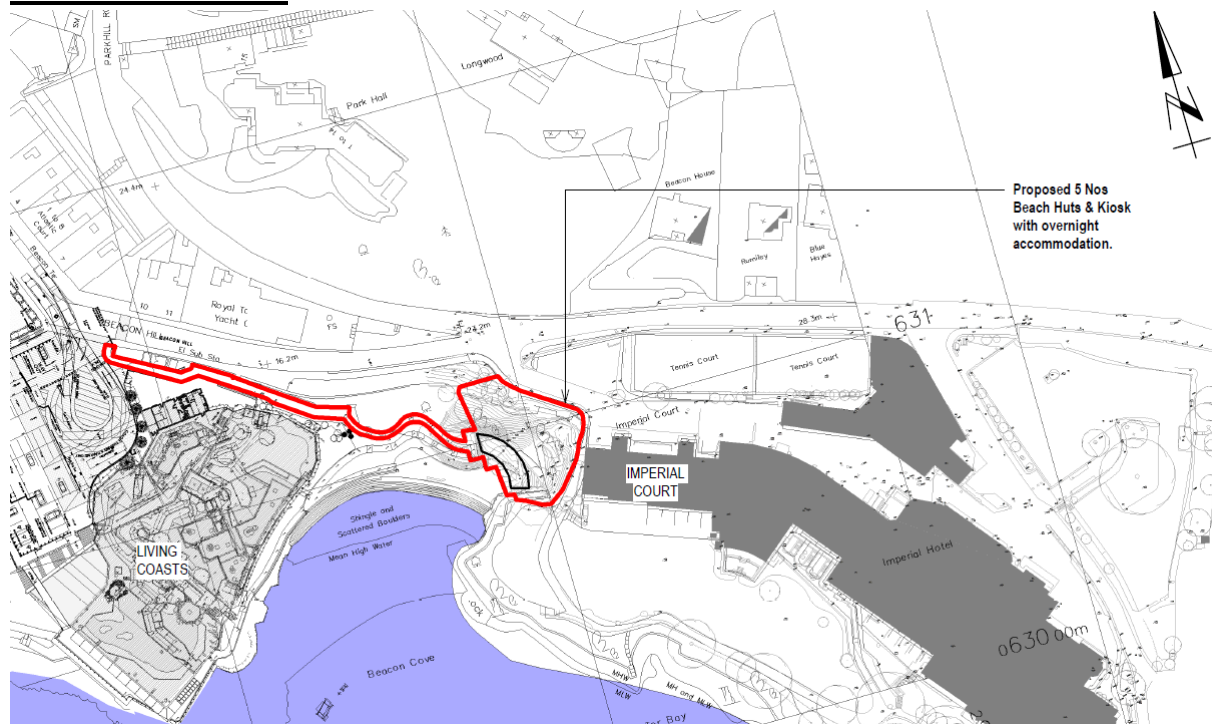


# **TORBAY COUNCIL**

Application Site Address	Beacon Cove Parkhill Road Torquay TQ1 2EP
Proposal	Formation of five tourist accommodation beach huts & kiosk. (As revised by plans received 9 December 2020 showing revised site boundary).
Application Number	P/2019/1023
Applicant	Hemel Hempstead Property Co (Apsley) Ltd
Agent	Kay Elliott Architects
Date Application Valid	28.11.2019
Decision Due date	23.01.2020
Extension of Time Date	An extension of time until 15.02.2021 has been requested.
Recommendation	<p>Approval: Subject to;</p> <ol style="list-style-type: none"> <li>1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency, and;</li> <li>2. The completion of a S106 Legal Agreement to secure heads of terms as outlined below, delegated to the Assistant Director of Planning, Housing and Climate Emergency.</li> </ol> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	In accordance with the Council's constitution which requires that, for applications relating to land owned by Torbay Council and against which objections have been received, the application be referred to the Planning Committee for decision making.
Planning Case Officer	Craig Davies

## **Site Location Plan**



## **Site Details**

The site comprises part of the hillside on the southern side of the public highway at Beacon Hill, to the west of Imperial Court (a seven storey block of flats) and its associated driveway, and to the east of the beach at Beacon Cove and the Living Coasts Marine Aviary.

The site slopes steeply downhill from northeast to southwest, is overgrown with vegetation, and has a disused pedestrian footpath that leads up to the northeastern boundary of the plot. The site boundary includes the access ramp that leads from the car park at Beacon Quay, along the northern boundary of Living Coasts, and down to Beacon Cove. A shipping container that has temporary permission for the storage of surfing equipment (see application P/2019/0309) is sited close to the site boundary.

Beacon Cove was a busy beach in the past and was previously developed with a number of buildings to meet the needs of visitors. These have since been removed although remnants remain. The cove is now less well used and there have been incidences of anti-social behaviour as it lacks surveillance.

In terms of the designations contained in the Development Plan, the site is located within Torquay Town Centre, the 'Torquay Town Centre and Harbour' Strategic Delivery Area, the Torquay Harbour Conservation Area, the Core Tourism Investment Area, and a Community Investment Area. The southern boundary of the site abuts the Coastal Change Management Area, and the South West Coast Path runs along Beacon Hill to the north of the site. Further to the north, on the far side of Beacon Hill and Parkhill Road, is the 'St Johns Wood' Urban Landscape Protection Area.

The site is adjacent to the Torbay Marine Conservation Zone (MCZ) and the Lyme Bay and Torbay Special Area of Conservation (SAC), and it is within 500m of the Daddyhole Site of Special Scientific Interest (SSSI) and 900m of the Meadfoot Sea Road SSSI.

The site is also in the vicinity of Grade II listed buildings and structures including the Royal Torbay Yacht Club, 9-11 Beacon Terrace, Haldon Pier and South Pier, and Grade II\* listed buildings and structures including 1-8 Beacon Terrace and the Beacon Quay Slipway.

Date of officer site visits: 11.12.2019 and 22.12.2020.

### **Description of Development**

The proposal is for the construction of a crescent-shaped, terraced building comprising five holiday apartments and a small retail kiosk. The building would be sited at the base of the hillside facing towards the sea on a natural stone retaining wall/sea wall.

The holiday apartments would each comprise of a living area with kitchenette and WC on the ground floor, and sleeping accommodation on a mezzanine level. They would be constructed in thermally insulated block work with timber cladding to the front elevation and zinc standing seam cladding to the side elevations and roof. The proposal is for a contemporary design, including folding timber shutters to the ground floor with double glazed windows, and with timber 'brise soleil' louvres to the mezzanine level sleeping accommodation. The ground floor living areas would open out onto a shared terrace with a balustrade comprising of stainless steel posts, glazed panels, and a timber handrail.

The retail kiosk would be at the western side of the building with a shuttered hatch on the western side elevation for serving customers. The proposal includes a new retaining wall to the rear of the proposed building, with a levelled access path along the rear of the building leading to a proposed bin storage facility on the eastern side.

The primary means of access would be from the existing footpath to Beacon Quay car park to the west, and the proposal also includes reinstating and extending the disused footpath steps to the rear of the building as a secondary pedestrian access leading up to Beacon Hill.

A waste water treatment unit would be located in the void beneath the terrace. Treated foul water and surface water would discharge into the sea.

It is important to note that an identical proposal was approved for this site by the Planning Committee in 2016. The approved scheme was not implemented and the

approval has since lapsed. Prior to that, a very similar proposal was also approved in 2013 but was not implemented.

### **Relevant Planning Policy Context**

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

#### Development Plan

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

#### Material Considerations

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

### **Relevant Planning History**

Relevant planning decisions relating to proposals for beach huts and a kiosk at this location:

- P/2016/0159: Provision of five residential beach huts and kiosk; access steps; alterations to retaining wall. Approved 01.09.2016.
- P/2012/1265: Construction of five 'overnight' beach huts and kiosk: Approved 03.05.2013.
- P/2011/0298: Extend time limit - construction of 8 beach huts, kiosk, shower room and terrace - application P/2008/1226/PA: Approved 13.06.2011.
- P/2008/1226: Construction of 8 beach huts, kiosk, shower room and terrace: Approved 21.11.2008.

#### Other relevant planning decisions:

- P/2019/0309: Siting of shipping container (subject to three-year lease) on hard standing, for storage of surfing equipment. Approved 23.07.2019.
- P/2015/0394: Retention of platform containing 3 car parking spaces: Refused 09.07.2015.
- P/2010/1334: Creation of 3 car parking spaces. Refused 19.01.2011. Appeal dismissed 18.05.2011.
- P/2010/0701: Creation of 3 car parking spaces. Refused 04.10.2010.

## **Summary of Representations**

In addition to the objection from the Torquay Neighbourhood Plan Forum which is described in the section below on consultation responses, approximately 10 objections (representing 7 parties including, amongst others, the Torquay Town Centre Community Partnership) were received in which the following matters were raised:

- The principle of private development adjacent to a public beach, and the need for beaches to remain publically accessible.
- The visual impact of development within the open and natural setting of Beacon Cove.
- Potential impacts from climate change, wave action and coastal erosion.
- Lack of access to sunlight due to overshadowing from cliffs and trees.
- Potential impact on the approved shipping container which is used for the storage of water sports equipment.
- The setting of a precedent encouraging similar applications in other coves.
- Disturbance for residents of Imperial Court due to noises and smells rising up the hillside.
- Impact on the GeoPark and Sea Grass preservation.
- The proposal is contrary to the Neighbourhood Plan as the site is not allocated.
- Potential for harm to wildlife and habitats.
- Proposals for waste collection are inadequate.
- Parking and access arrangements are inadequate.
- Potential for congestion/obstruction at the vehicular access to Imperial Court.
- Negative impact on highway safety.
- Removal of vegetation and felling of trees.
- Structural instability of this part of the hillside.
- The proposal to reinstate the footpath up to Beacon Hill is impractical.
- Problems with anti-social behaviour at the site, and the proposal's compatibility with existing security measures.

## **Summary of Consultation Responses**

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

The Torquay Neighbourhood Plan Forum submitted an objection which stated the following:

- The lack of consultation with the Community Partnership is contrary to the Neighbourhood Plan policy on community led planning.
- The proposal is contrary to the Neighbourhood Plan policy on designing out crime. Beacon Cove has been subject to improvements by the Community partnership to address anti-social behaviour.
- The proposal would constitute overdevelopment of a site that currently has no permanent structures, contrary to the Neighbourhood Plan policy on established architecture.
- The proposal would have a significant impact on the openness of the area.

- The proposal is for tourism accommodation on a greenfield site, contrary to the Neighbourhood Plan policy on tourism accommodation on brownfield sites.
- The application does not appear to have met the Neighbourhood Plan policy requirements relating to the assessment and mitigation of impacts on protected species, habitats and biodiversity.
- The application does not appear to have met the requirements in terms of the Neighbourhood Plan policy on marine management planning.

**Environment Agency:**

“The site falls outside any constraints. I can confirm that we do not have any comment regarding this proposal.” The consultation response also brought attention to the Environment Agency’s Flood Risk Standing Advice.

**Natural England:**

“Natural England has no comments to make on this application.” The consultation response also brought attention to Natural England’s Standing Advice relating to protected species and recommended that the proposal’s potential impacts on the South West Coastal Path National Trail should be considered including any appropriate mitigation measures.

**Drainage:**

“1. The development lies within Flood Zone 1 and the developer has submitted a site specific flood risk assessment.

“2. The Environment Agency long term flood maps identifies a surface water flood risk passing through the development site. The developer has identified this surface water flood risk within his site specific flood risk assessment and he has proposed mitigation measures to reduce this flood risk.

“3. Surface water run-off from the proposed development will discharge at an uncontrolled rate to coastal waters. This complies with the requirements of the Torbay Critical Drainage Area.

“Providing the development is constructed in accordance with the site specific flood risk assessment and all identified mitigation measures are included within the development I have no objections on drainage grounds to planning permission being granted.”

**South West Water:** No objection.

**Highways:** “Highways have no technical issues with this application.”

**Strategic Transportation:**

The consultation response raised the following matters:

- There appears to be only one means of access (the footpath from Beacon Hill adjoining the Beacon Hill Car Park) that does not rely on third party land.
- The plans indicate an area of land with 'unconfirmed ownership', however this land forms part of the access via the pedestrian access ramp. A safe and suitable access should be provided.
- Cycle storage details for guests and staff should be provided.
- S106 planning contributions should be sought to support sustainable modes of travel including the provision of an electric vehicle charging facility for Beacon Hill Car Park.
- The need for a condition requiring a Car Parking Management Plan (for staff, guests, and any relevant waste collection vehicles) prior to commencement.
- Provisions for the collection of waste (recycling, solid waste, and any waste from the proposed waste water treatment plan) are required. A Waste Management Plan should be secured by condition.

### **Community Safety:**

"Although in general I have no objections to the proposed scheme I do have some concerns in relation to drainage. As I understand it the beach huts will be provided with "bio-bubble" treatment tank. According to their website information Bio Bubble Technologies claim that effluent from their treatment system can be discharged directly to aquatic systems with no significant environmental implications.

"However, it should be borne in mind that Beacon Cove is a designated bathing beach and any discharge will require the consent of the Environment Agency. In addition the tanks will require desludging from time to time and given the distance from the highway or adjacent car park this could be problematic. Re-assurance from the applicant that this will be possible should be sought."

### **Arboriculture:**

"I have reviewed the documents pertaining to the above application also the previous applications relating to the site. I have this morning made a site visit to determine if there were any significant changes to the site and tree/vegetation stock. I can confirm that there does not need to be any further arboricultural input. The majority of the removals will be the clearance of scrub. My comments are consistent with the previous tree officers."

### **Food & Safety:**

The consultation response raised the following matters:

- The need to comply with legislation for Food Hygiene (if the kiosk is to be used for food), Healthy & Safety at Work, and Health (with regard to any smoking areas).
- The need for a mains source of potable water and a dedicated hand wash basin if the kiosk is to be used for food and drink.
- The need for suitable refuse areas inside and outside the premises.
- A commercial waste contract for collection of trade refuse is required.

- The need for a condition to secure ventilation/extraction equipment relating to any cooking operations on the premises.
- The need for a café pavement licence if there would be any tables and chairs on the public highway.
- The need for a licence if the kiosk would serve hot food or drink between the hours of 11pm and 5am.

**Waste:**

The consultation response raised the following matters:

- The need for a waste management plan.
- Given the steepness of the site and the narrow width of access paths, consideration needs to be given to the size and weight of the waste containers to ensure that the people responsible are physically able to move them to the collection point, and without causing obstruction to other users of the access paths.
- The bin store does not appear to be adequately sized for the number of units.
- Proposals for business use need to be serviced by private waste collection contractors. Unable to comment on whether private contractors would collect directly from the bin store or via a collection point adjacent to the public highway.
- The need for management of litter generated at the site, including to ensure that litter is not released into the marine environment.

**Devon & Cornwall Police:**

“From a designing out crime and disorder perspective the police have no comment to make.” The consultation response also went on to indicate their availability to comment on police preferred standards and specifications for physical security elements of the proposal.

**Royal Society for the Protection of Birds:** No response received.

**Planning Officer Assessment**

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Impact on Amenity
4. Impact on Highways
5. Impact on Flood Risk and Drainage
6. Impact on Ecology
7. Impact on Arboriculture
8. Low Carbon Development



## **1. Principle of Development**

The principle of the development of holiday accommodation on this site has been established through the approval of an identical scheme by the Planning Committee in 2016 (P/2016/0159), as well as by the approval of another similar scheme in 2013 (P/2012/1265). Furthermore, an earlier scheme for 8 'beach huts' on the site was approved in 2008, although the said scheme did not provide for overnight accommodation. These previous approvals were not implemented and are no longer extant. It is important to note that the Torquay Neighbourhood Plan was made in the years since the 2016 approval and so the previously approved schemes would not have been assessed in terms of the policies in the Torquay Neighbourhood Plan.

The Torquay Neighbourhood Plan Forum has objected to the principle of the proposed development on the application site, contending that the proposal conflicts with policies within the Neighbourhood Plan. Central to their objection is an interpretation that the proposal amounts to the development of an unallocated greenfield site, which they contend to be contrary to Neighbourhood Plan policies on brownfield/greenfield development and on new tourism development. In this regard, relevant Neighbourhood Plan policies include Policy TS4 (Support for Brownfield and Greenfield development) which broadly supports brownfield development and indicates that greenfield development will be supported where the site is allocated or where the development is required so as to meet strategic economic policies within the Local Plan, and Policy TE1 (Tourism accommodation on brownfield sites) which indicates support for new tourism development on brownfield sites.

It is important to note, however, that the site is not designated as Undeveloped Coast or as Countryside Area in terms of the Local Plan, and is not designated as a Local Green Space in terms of the Neighbourhood Plan. Moreover, the site is designated as part of Torquay Town Centre and part of the Torquay Town Centre and Harbour Strategic Delivery Area. The applicant's submission includes details of the history of Beacon Cove from which it is evident that Beacon Cove has accommodated various forms of development in the past, including buildings with a broadly similar siting as the current proposal. Given the previous approvals at this site, the site's designations in the Local Plan and Neighbourhood Plan, and historical development at Beacon Cove, it is considered that the proposal does not present significant conflict with Policies TS4 or TE1 of the Neighbourhood Plan.

Furthermore, insofar as the site may be considered to be a greenfield site, it is worth noting that the proposal does make a contribution towards meeting the objectives of strategic economic policies within the Local Plan including Policies SS4, SS5, SDT2 and TO1 of the Local Plan. Policy SS4 indicates support for proposals that deliver employment space, while Policy SS5 indicates particular support for the provision of new employment space in (amongst other identified priority areas) town centres, including relating to tourism which the policy identifies (amongst other sectors) as being an important employment generator in Torbay. Policy SDT2 of the Local Plan

seeks to promote Torquay Town Centre and Harbour as the largest retail and leisure centre of Torbay, including promoting the regeneration of key sites that will help strengthen its role as a commercial and social centre for residents and visitors. Policy TO1 of the Local Plan supports, amongst other things, the provision of new tourist facilities and accommodation with a particular emphasis on Core Tourism Investment Areas. Specifically, Policy TO1 supports, amongst other things, proposals that attract new overnight visitors, that make positive use of Torbay's marine environment, and that contribute to the regeneration of harbourside and waterfront areas. While the magnitude of the proposal's contribution in this regard would be limited due to the relatively small size of the proposed development, it is noteworthy that the proposal would contribute to the regeneration of a site in the Core Tourism Investment Area surrounding Torquay's harbourside through the provision of overnight holiday accommodation and a kiosk in an attractive maritime setting, positively impacting on tourism and employment in accordance with the intentions of Policies SS4, SS5, SDT2 and TO1 of the Local Plan.

The Torquay Neighbourhood Plan Forum also contend that the lack of direct prior engagement with the Torquay Town Centre Community Partnership is contrary to the Neighbourhood Plan policy on community led planning. Policy TS3 (Community Led Planning) of the Neighbourhood Plan states that early engagement with the relevant Community Partnership in respect of all proposals for major development, new housing or business proposals on non-allocated, greenfield land, will be supported. While it would certainly have been beneficial for the applicant to have engaged directly with the Community Partnership as is supported by the said policy, the wording of this policy is such that this is not an outright requirement, and so it is considered that the lack of direct engagement with the Community Partnership would not amount to a reason for refusal of the application. During public consultation the Torquay Town Centre Community Partnership submitted an objection to the proposal, and the matters raised in their objection are duly considered in the detailed assessment below.

Given the site's coastal location adjacent to the edge of the Coastal Change Management Area, the proposal has been considered in terms of Policy C3 of the Local Plan and Policy TE7 (Marine Management Planning) of the Neighbourhood Plan. Policy C3 of the Local Plan states that development within the Coastal Change Management Area, or reliant upon services within it, will be considered in terms of the South Devon and Dorset Shoreline Management Plan. The Shoreline Management Plan indicates this area as a site of 'No Active Intervention'. It is noteworthy that the proposed development would be sited outside of the Coastal Change Management Area and at a level that would be a considerable height above the peak high tide level, with the proposed building being sited above a large retaining wall. A prior to commencement condition is proposed that would require the submission of a geotechnical survey conducted by registered professionals and setting out any necessary mitigation measures to be carried out by the developer. Policy TE7 (Marine Management Planning) of the Neighbourhood Plan states that development proposals

on land adjacent to the coastline will be supported where they do not have an adverse effect on a marine policy or management plan. While it should be noted that the Marine Management Organisation (MMO) published a Draft South West Inshore and South West Offshore Marine Plan in 2020, the plan area includes the area from the mean high water spring tide to 12 nautical miles out to sea, and from 12 nautical miles out to the seaward limit of the Exclusive Economic Zone. Given that the proposed development would be sited outside of the mean high water spring tide, the proposal would not have any direct impact on the said draft plan. A consultation request has been sent to the MMO, and a verbal updated will be provided to Members at Planning Committee. It may be of relevance to note that for the previously approved application with reference P/2016/0159 (for which the proposed scheme was identical to the current scheme), the MMO provided a consultation response which noted that the proposed works appeared to be above the mean high water springs mark, and that in such instances the MMO would have no comment to make. Subject to the said condition, the proposal is considered to be in accordance with Policy C3 of the Local Plan and Policy TE7 of the Neighbourhood Plan.

Given the small size of the proposed units, they would not provide an adequate standard of living environment in order for them to be used as permanent residential dwellings with due regard to Policy DE3 of the Local Plan. Therefore, it is necessary to impose a condition to ensure that the proposed holiday apartments would be used for short-term holiday accommodation only and not as residential dwellings, and a S106 legal agreement would be used to secure a financial contribution for monitoring purposes in this regard in accordance with the Council's adopted Planning Contributions and Affordable Housing SPD.

It is therefore considered that there are no policies in the Development Plan that would indicate that the proposal is not acceptable in principle.

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

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. Paragraph 130 of the NPPF 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'. Paragraph 192 of the NPPF states that, in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that the conservation of heritage assets can make to communities, and the desirability of new development making a positive contribution to local character and distinctiveness.

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8

of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas and listed buildings, whilst allowing sympathetic development. Policy HE1 of the Local Plan states that development proposal should have special regard to the desirability of preserving any listed building and its setting.

The design of the proposal is unchanged compared to that which was previously approved by the Planning Committee in terms of the application P/2016/0159. It is considered that the proposal succeeds in balancing contemporary design with the traditional design of English seaside beach huts. It is a high quality design that would fit in with the landscape setting and enhance the character of the Conservation Area.

With regard to the objectors' concerns relating to the proposal's impact on the open character and natural setting of Beacon Cove, it is important to note that the proposed building would be sited towards the eastern edge of Beacon Cove on the hillside, with much of the cove remaining undeveloped and open. Given the siting, scale and design of the proposed building, and with due regard to the presence of urban development (including Imperial Court and Living Coasts) within the wider backdrop and setting of Beacon Cove, it is considered that the proposal would not result in any unacceptable impact on the character of Beacon Cove.

Policy TH2 (Designing Out Crime) of the Neighbourhood Plan states that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion. Similarly, Policy DE1 of the Local Plan also promotes measures for designing out crime as part of development proposals. There have previously been instances of anti-social behaviour at Beacon Cove, and objectors (including the Torquay Neighbourhood Plan Forum and the Torquay Town Centre Community Partnership) have raised this matter as a concern. It is considered that the proposal, which would provide a more consistent human presence at Beacon Cove at all hours and would therefore provide for passive surveillance, would help reduce the potential for problems associated with anti-social behaviour. The Torquay Town Centre Community Partnership have implemented measures to improve security at Beacon Cove (including the provision of a lockable gate at the entrance to the footpath that leads from the Beacon Quay car park to Beacon Cove), and the proposal's compatibility with these security measures is a matter that warrants consideration. Through the use of a condition requiring the submission of a Crime Prevention Plan, it is considered that appropriate physical security measures (including, for example, secure boundary treatment with gates, contextually appropriate security lighting, and CCTV) can be secured in a manner that would be compatible with the measures that have already been put in place by the Torquay Town Centre Community Partnership.

Finally, it is reiterated that the application has been circulated to Devon and Cornwall Police who indicated that they have no comments with respect to the proposal, but that they are available to give input on physical security measures. The proposed Crime Prevention Plan condition would allow for Devon and Cornwall Police to be consulted as part of the discharge of conditions process. It is considered that the proposal would make a positive contribution towards combating crime and anti-social behaviour at Beacon Cove.

The proposal is considered to be in accordance with Policies DE1, SS10 and HE1 of the Local Plan, Policies TH2 and TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

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

Policy DE3 of the Local Plan states that development should provide a good level of amenity for future occupiers and should not unduly impact upon the amenity of neighbouring properties and surrounding uses.

Given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of the occupants of neighbouring buildings in terms of their privacy, outlook, or access to natural light. The proposed building would be an adequate distance away from the nearest residential dwellings at Imperial Court, and would also be set at a lower level.

Subject to a condition to ensure that they are used for holiday use only (given that they would be too small to be appropriate for permanent residential use), it is considered that the proposed units would provide an acceptable level of amenity for future occupiers. Each unit would have a large amount of glazing on the front elevation and, with this glazing having a southwesterly aspect, it is considered that the units would have an acceptable level of access to natural light. The proposed units would also be served by an external terrace and a dedicated bin storage facility.

Subject to the said condition, the proposal is considered to be in accordance with Policy DE3 of the Local Plan and the guidance contained within the NPPF.

### **4. Impact on Highways**

Policy TA2 of the Local Plan states that all development proposals should make appropriate provisions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan states that all development proposals should make appropriate provisions for car, commercial vehicle, and cycle parking spaces, as well as bin storage. Policy THW5 of the Neighbourhood Plan states that, in the interests of encouraging the use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate.

The primary means of accessing the proposed development would be via the Beacon Quay public car park (which is around 110m to the west of the proposed building) and via the footpath and access ramp that leads from the car park, along the northern boundary of the Living Coasts site, and into Beacon Cove. Given that a security gate has recently been erected across this footpath, a prior to commencement condition is proposed requiring that the developer demonstrate that future occupiers of the proposed holiday units would have continuous, unfettered access along the path from Beacon Quay car park.

The proposal also includes reinstating a disused and overgrown footpath that leads up the hillside to the rear of the proposed building and extending the footpath to connect to the public highway outside the access gate serving Imperial Court. A prior to commencement condition is proposed requiring the submission of full details of this footpath for approval.

The Beacon Quay public car park is considered to have sufficient capacity to adequately accommodate the parking demand associated with the proposed development. The applicant's agent has agreed to a S106 contribution towards sustainable transport, including the provision of an electric vehicle charging facility in the harbour area.

In addition, it is noted that the application site is well located with respect to public transport routes and local tourist attractions, thereby increasing the potential for future occupiers of the proposed development to make use of sustainable modes of transport including walking and cycling for some journeys.

In light of the objectors' concerns with respect to potential impacts relating to parking and access, a condition is proposed requiring the submission of a Parking and Access Management Plan.

Subject to the said conditions, the proposal is considered to be in accordance with Policies TA2 and TA3 of the Local Plan and Policy THW5 of the Neighbourhood Plan.

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

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

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment (FRA) which states that surface water run-off from the proposed development would be discharged at an uncontrolled rate to coastal waters. This complies with the requirements of the Torbay Critical Drainage Area.

The FRA identifies that the southern part of the site is within an area of low and medium risk from surface water flooding according to the Environment Agency's Flood Risk Map. The FRA recommends that the risk from surface water flooding be mitigated by the structures being sealed up to 900mm from ground level.

Regarding risk from tidal impact, the FRA states that due to the site's southerly/southwesterly aspect towards the southern section of Torbay (rather than towards the Channel), there is limited fetch and therefore limited production of waves in this area. The FRA states that there would be substantial freeboard of 5.32m between the peak still water level and the proposed finished floor level (and 4.72m between the peak high tide level and the proposed finished floor level), and concludes that the proposed development would be at low risk from wave action.

The Council's drainage engineer assessed the proposal and indicated that he has no objection provided that the development is constructed in accordance with the site specific flood risk assessment and all identified mitigation measures are included within the development. The application was also circulated to the Environment Agency who indicated that they have no comment with respect to the proposal.

Subject to a condition to secure the drainage strategy and flood mitigation measures, the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

## **6. Impact on Ecology**

Policy NC1 of the Local Plan, which seeks to conserve and enhance Torbay's biodiversity and geodiversity, states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. The National Planning Policy Framework (NPPF) provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on, and providing net gains for, biodiversity (Paragraph 170).

Policy TE5 (Protected Species, Habitats and Biodiversity) of the Neighbourhood Plan states, amongst other things, that proposals for business premises of any class on an unallocated site that could have an impact on a protected species or habitat must provide an assessment of impacts and any necessary mitigation in order to protect and enhance those species and habitats.

The application is accompanied by an Ecological Assessment Report and a Construction Environmental Management Plan provided by the applicant's ecological consultant, which stated the following:

Designated sites:

The proposal would not result in any direct impact on any designated site, nor any indirect impact on the integrity of the Lyme Bay and Torbay Special Area of

Conservation. Given that the site is adjacent to the boundary of the Torbay Marine Conservation Zone, there is potential for pollutants to enter the marine environment (although any impacts would be highly localised and quickly diluted), and potential for sediment pollution to impact on Ealgrass within the shallow subtidal area of the cove.

#### Habitats:

The site includes tall ruderal/scrub habitat. The ecological value of the habitat is considered to be low.

#### Species:

- Bats: The site may be used as part of a much wider resource by bats for foraging (in particular more commonplace species such as pipistrelles), but the site is small and would not constitute an important foraging area for bats, and, with a proportion of the habitat being retained, there would not be a significant impact on foraging bats.
- Potential for the site to be used by hedgehogs, slow worms, and nesting birds, and the potential for damage to said species during site clearance.

No further ecological survey is required.

The ecological assessment report recommended the following mitigation measures:

- Measures relating to the construction phase and the operational phase to avoid impact on the MCZ (as described in detail in the submitted Construction Environmental Management Plan).
- The cliff face to the southeast must not be affected by artificial lighting, with any external lighting being directed away from the cliff.
- A pre-clearance check for hedgehogs carried out by hand by a competent ecologist. Where hedgehogs are found they should be placed by the ecologist into a secure box and removed from the site to a nearby safe location.
- Scrub clearance should be carried out outside of the bird nesting season, unless a competent ecologist has undertaken a careful, detailed check for active birds' nests immediately beforehand and provided written confirmation that no birds will be harmed. Any birds nesting must be left to complete breeding.
- The tall ruderal vegetation should be cut back in stages and then should be kept short until the construction phase has been completed so as to discourage habitation by any reptiles.
- Any features that could potentially harbour sheltering slow worms should be carefully dismantled and removed under the supervision of an ecologist. If any slow worms are found these should be placed within a secure box and subsequently released into nearby suitable habitat away from the construction site.
- Biodiversity enhancement including the planting of shrubs (preferably native species) with a high nectar/fruitlet value, and the provision of four bird boxes to the rear of the chalets or on suitable trees.



Subject to conditions to secure the mitigation measures recommended within the ecological documents, the application is considered to be in accordance with Policy NC1 of the Local Plan and the guidance contained in the NPPF.

## **7. Impact on Arboriculture**

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm (amongst other things) protected trees or other natural features of significant landscape, historic or nature conservation value, and that, where the loss of trees or landscape features is considered acceptable as part of development, that replacement or other mitigation measures will be required through planning condition or legal agreement.

The Council's Senior Tree and Landscape Officer has assessed the proposal and has indicated no objection, noting that the majority of the removals will be the clearance of scrub.

Subject to a condition requiring a landscaping plan detailing planting to offset the loss of shrubs as a result of the proposed development, the proposal is considered to be in accordance with Policy C4 of the Local Plan.

## **8. Low Carbon Development**

Policy SS14 of the Local Plan seeks to promote a low carbon form of development with adaptations to climate change so as to minimise carbon emissions and the use of natural resources.

The proposal incorporates insulated blockwork walls with timber/zinc external cladding, double-glazing for the windows, and would have windows with a southwesterly aspect with no windows on the north-facing side, all of which would improve the energy efficiency of the proposed building.

The proposed development would be sited in a central location adjacent to Torquay's town centre and harbour and close to nearby tourist attractions, thereby increasing the potential for occupiers of the proposed holiday units and visitors to the kiosk making use of sustainable modes of transport.

The applicant has also agreed to Section 106 contributions to fund sustainable transport in the Torquay harbour area including an electric vehicle charging facility.

The proposal is therefore considered to be in accordance with Policy SS14 of the Local Plan.

## **Sustainability**

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

### **The Economic Role**

The proposal would result in economic benefits in the form of overnight tourist accommodation that would attract additional visitor spend within Torbay's tourism sector. The proposal would also have the potential to contribute towards employment opportunities relating to servicing the holiday units and operating the kiosk. The proposal is considered to be positive with respect to the economic role.

### **The Social Role**

The proposal would provide for passive surveillance of a cove that has been the subject of anti-social behaviour problems, with a condition of approval requiring a Crime Prevention Plan that would secure further measures to improve security. In addition, the proposed kiosk providing a facility for serving food and drinks to members of the public visiting Beacon Cove. Subject to conditions that would mitigate the potential for any unacceptable impacts on neighbouring amenities, the proposal is considered to be positive with respect to the social role.

### **The Environmental Role**

The application is accompanied by detailed ecological assessment documentation setting out recommended measures to mitigate the potential impacts of the proposal on species, habitats and biodiversity. The design of the proposed building incorporates measures to improve energy efficiency. The site is well located with respect to the town centre, the harbour, and local tourist attractions (thereby increasing the feasibility of sustainable modes of transport), and the applicant has agreed to s106 contributions towards sustainable transport including the provision of an electric vehicle charging facility in the harbour area. Subject to conditions to secure the mitigation measures recommended by the applicant's consulting ecologist and to secure a landscaping plan to offset the loss of shrubs, the proposal is considered to be neutral with respect to the environmental role.

### **Sustainability Conclusion**

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

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

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8 of the Act. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been

balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance.

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

### **Local Finance Considerations**

#### **Section 106:**

Prior to a planning consent being issued, a S106 legal agreement pertaining to the following matters should be completed. Any applicable triggers and instalments in relation to the proposed financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

#### **Monitoring Contribution:**

A sum of £1,800 to be used by the Council towards monitoring the occupancy of the development to ensure that the individual units are occupied as holiday accommodation only. This is in accordance with paragraphs 4.14.1 to 4.14.4 and table 4.13 of the Planning Contributions and Affordable Housing SPD.

#### **Sustainable Transport:**

A sum of £8,100 to be used by the Council towards sustainable transport measures in the harbour area including facilities for electric vehicle charging. This is in accordance with sections 4.3 and 4.4 and table 4.3 of the Planning Contributions and Affordable Housing SPD.

**CIL:** Not applicable.

### **EIA/HRA**

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

HRA: Not applicable.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme would contribute to addressing the Development Plan aspirations relating to investment into tourism and employment in Torquay's town centre and harbour area, would provide a well-designed, contemporary beach hut style development that would enhance the character of Beacon Cove and the Torquay

Harbour Conservation Area, and would provide passive surveillance and security improvements that would help address concerns with respect to anti-social behaviour at Beacon Cove. Subject to the planning conditions detailed below and the Section 106 contributions detailed above, the proposal is considered to be generally in accordance with the Development Plan.

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

It is considered that the proposal is acceptable in principle, and would not result in any unacceptable harm to visual amenities, neighbouring amenities, highways, flood risk and drainage, ecology, or arboriculture. The proposal is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations.

### **Officer Recommendation**

That planning permission be granted, subject to:

The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency, and;

The completion of a S106 Legal Agreement to secure heads of terms as outlined below, delegated to the Assistant Director of Planning, Housing and Climate Emergency, and;

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

### **Conditions**

#### **Holiday use**

The beach huts hereby permitted shall be used for short term holiday use only and not for permanent residential occupation. The beach huts shall not be occupied by someone as their primary residence and the applicant or an appropriate management company shall maintain a register of the names of all the occupiers of the beach huts and their home addresses, and shall make this information available at all reasonable times to the Local Planning Authority. No person(s) may occupy one or more of the units for more than 12 weeks in a calendar year.

Reason: The huts are not suitable for permanent residential occupation due to their size and location and these measures are necessary to ensure the beach huts are used for holiday purposes only to accord with saved Policies SDT2, TO1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Materials**

Prior to the construction of the development hereby approved, details of all external building materials, including colour, shall have been submitted to and approved in writing by the Local Planning Authority. Samples of materials shall be made available for inspection by the Local Planning Authority as required. The development shall thereafter be constructed from the building materials as approved.

Reason: In the interests of ensuring the preservation of the visual quality of the Conservation Area, and in order to comply with Policies SS10 and DE1 of the Adopted Local Plan 2012-2030.

### **Design details**

Prior to the construction of the huts, drawings at a scale of 1:10 showing the following details shall have been submitted to and approved in writing by the Local Planning Authority:

- (1) Eaves overhang
- (2) Rain water goods
- (3) Fascia, soffit and barge boards
- (4) Reveals to windows/door openings

The beach huts shall not be occupied until the above details have been completed as approved.

Reason: In the interests of ensuring the preservation of the visual quality of the Conservation Area, and in order to comply with Policies SS10 and DE1 of the Adopted Local Plan 2012-2030.

### **Construction method statement**

No development shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. This shall clearly identify all risks to ecology and the Marine environment and measures to mitigate any likely impacts. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- (1) Identification of parking of vehicles of site operatives and visitors.
- (2) Positions for loading and unloading of plant and materials.
- (3) Location of site compound for storage of all plant and materials used in constructing the development.
- (4) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (5) Facilities for wheel washing.
- (6) Detailed measures to control the emission of all material, liquids, dust and dirt during construction particularly in relation to impact on the quality of seawater.

- (7) Details of a scheme for recycling/disposing of waste resulting from construction works.
- (8) Lighting plan confirming minimal light spill to landward side of the development.
- (9) Hours of construction to be restricted to daylight hours only.

Reason: This information is required prior to any works commencing on site to ensure that measures are in place to safeguard the quality of the Marine SAC, to avoid impacts on the local ecology and ensure that the construction works are carried out in an appropriate manner and to minimise the impact on residential amenity and in the interests of the convenience of highway users in accordance with policies NC1, TA2 and DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Retaining wall**

Prior to the construction of the retaining wall to the rear of the beach huts hereby approved, details of its height, length, and the materials to be used shall be submitted to and approved in writing by the Local Planning Authority. The retaining wall shall thereafter be built in accordance with the approved dimensions and materials.

Reason: To ensure that the details of this structure are appropriate in the interests of the visual quality of the conservation area and to accord with policies SS10 and DE1 of the Adopted Torbay Local Plan 2012-2030.

### **Landscaping plan**

No development shall take place until details of a scheme of hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. This scheme shall include sufficient planting to offset the loss of shrubs and vegetation as a result of the development hereby approved and to mitigate against the loss of greenery at the site. 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 Policies DE1 and C4 of the Adopted Torbay Local Plan 2012-2030.

### **Footpath**

Prior to any works to reinstate the disused footpath at the rear of the building hereby approved leading up to the public highway, full details of its construction including any proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The point of access of the footpath to the public highway

shall be clearly marked on the scheme along with details of the access to the public highway. Once agreed, the works to reinstate the footpath shall be carried out in strict accordance with the approved details and shall be completed prior to the occupation of the units.

Reason: In the interest of visual amenity, and to ensure that that the footpath provides a safe and suitable means of pedestrian access, and in accordance with Policies DE1, DE3, SS10 and TA2 of the Adopted Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

### **Waste management plan**

Prior to first occupation of the development hereby approved, a Waste Management Plan detailing measures for the recycling, storage, and collection of waste likely to be generated by the development has been submitted to, and approved in writing by, the Local Planning Authority. Once agreed, the development shall be operated in strict accordance with the Waste Management Plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision of satisfactory facilities for waste and in order to comply with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

### **Waste water treatment unit**

The beach huts hereby permitted shall not be occupied until full details of the waste water treatment unit to deal with foul drainage have been submitted to and approved in writing by the Local Planning Authority. The waste water treatment unit shall be installed as approved before the beach huts are occupied and maintained in accordance with the approved details thereafter.

Reason: To ensure the provision of satisfactory facilities for the drainage of foul water and to avoid any impact on the Marine SAC and quality of the seawater and in order to comply with policies NC1, DE3 and ER2 of the Adopted Torbay Local Plan 2012-2030.

### **Lighting plan**

Prior to the first occupation of the development hereby approved, a lighting plan shall be submitted to and approved in writing prior to occupation of the beach huts. This shall be designed to minimise light impact on the cliff face and include measures to minimise any light spill on the landward side of the development and from use of the footpath. No lighting shall be provided unless in accordance with the approved lighting plans

Reason: To minimise impacts on bats and to comply with policies NC1 of the Adopted Torbay Local Plan 2012-2030.

**Bird breeding season**

No vegetation shall be removed during the bird breeding season from March to September, inclusive unless such action is approved in writing by a suitably qualified ecologist.

Any vegetation that could possibly support roosting bats shall not be removed unless it has been previously assessed by a suitably qualified ecologist. If breeding birds are found or the presence of bats suspected, clearance work will not be permitted until the ecologist is satisfied that works can continue.

Reason: To protect local wildlife and to comply with policy NC1 in the Adopted Torbay Local Plan 2012-2030.

**Flood risk assessment**

The scheme shall be constructed wholly in accordance with the Flood Risk Assessment hereby approved, with particular regard to the surface water drainage strategy, flood mitigation measures, and floor levels detailed within the Flood Risk Assessment hereby approved.

Reason: To ensure resilience in relation to possible flood risk and to comply with Policy ER1 of the Adopted Local Plan 2012-2030.

**Parking and access management plan**

Prior to first occupation of the development hereby approved, a Parking and Access Management Plan detailing parking and access arrangements for staff, guests, waste collection vehicles, and any other relevant service or commercial vehicles, shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved Parking and Access Management Plan and parking and access shall be provided in accordance with the approved details prior to the occupation of the development and retained for its lifetime.

Reason: In the interests of highway safety and amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030.

**Bin storage**

Prior to first occupation of the development hereby approved, the bin storage facility indicated on the plans hereby approved shall be made available for use. Once provided, the bin storage facility shall be retained for the life of the development hereby approved, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of visual amenity and neighbouring amenity, and in accordance with Policies DE1, DE3 and SS10 of the Adopted Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.



### **Kiosk**

No hot food preparation (excluding hot drinks or toasted bread products) can be carried out as part of the operation of the kiosk hereby approved unless details of ventilation/extraction equipment (including detailed appearance as well as measures to control noise and odour) have been submitted to, and approved in writing by, the Local Planning Authority, and fully implemented prior to commencement of any hot food preparation (excluding hot drinks or toasted bread products).

Reason: In the interest of visual amenity and neighbouring amenity, and in accordance with Policies DE1, DE3, and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.

### **Ecology**

The development hereby approved shall proceed in strict accordance with the recommendations set out in the Ecological Assessment Report and the Construction Environmental Management Plan hereby approved.

Reason: So as to ensure that the development proceeds without ecological harm, and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan.

### **Geotechnical survey**

Prior to the commencement of works, a geotechnical survey conducted by a registered professional shall be submitted to, and approved in writing by, the Local Planning Authority. The geotechnical survey shall set out any necessary mitigation in order to ensure that the development is safe from, and does not contribute to, any identified land stability issues. The development shall thereafter proceed in strict accordance with any and all mitigation measures set out in the approved geotechnical survey.

Reason: So as to ensure that the development is safe from, and does not contribute to, any land stability issues, and in accordance with Policy C3 of the Adopted Torbay Local Plan 2012-2030.

### **Crime prevention plan**

Prior to first occupation of the development hereby approved, a Crime Prevention Plan detailing measures (including, but not limited to, secure boundary treatment with gates, contextually appropriate external lighting, and CCTV) to mitigate the potential for crime and anti-social behaviour shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall thereafter proceed in strict accordance with the approved Parking and Access Management Plan.

Reason: In the interest of mitigating the potential for crime and anti-social behaviour, and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH2 of the Torquay Neighbourhood Plan.

### **Access**

No development shall take place until it has been demonstrated to the satisfaction of the Local Planning Authority how continuous, unfettered access along the path from Beacon Quay car park, along the northern edge of the Living Coasts site and into Beacon Cove would be secured for use by occupiers of the holiday units hereby approved.

Reason: In the interests of ensuring safe and suitable access to and from the development, in accordance with Policy TA2 of the Adopted Torbay Local Plan 2012-2030.

### **Informative:**

#### **Discharge**

The applicant's attention is drawn to the fact that the proposal to discharge treated foul water into the sea will also require the consent of the Environment Agency.

### **Relevant Policies**

#### *Torbay Local Plan:*

- SS4 – The economy and employment
- SS5 – Employment space
- SDT2 – Torquay town centre and harbour
- TO1 – Tourism, events and culture
- C3 – Coastal change management
- DE3 – Development amenity
- DE1 - Design
- SS10 - Conservation and Historic Environment
- HE1 – Listed buildings
- TA2 - Development access
- TA3 - Parking requirements
- ER1 - Flood Risk
- NC1 - Biodiversity and Geodiversity
- C4 – Trees, hedgerows and natural landscape features
- SS14 – Low carbon development and adaptation to climate change
- SS3 – Presumption in favour of sustainable development

#### *Torquay Neighbourhood Plan:*

- TS4 - Support for brownfield and greenfield development
- TE1 – Tourism accommodation on brownfield sites
- TS3 – Community led planning

TE7 – Marine management planning

TH8 - Established architecture

TH2 – Designing out crime

THW5 – Access to sustainable transport

TE5 – Protected species, habitats and biodiversity