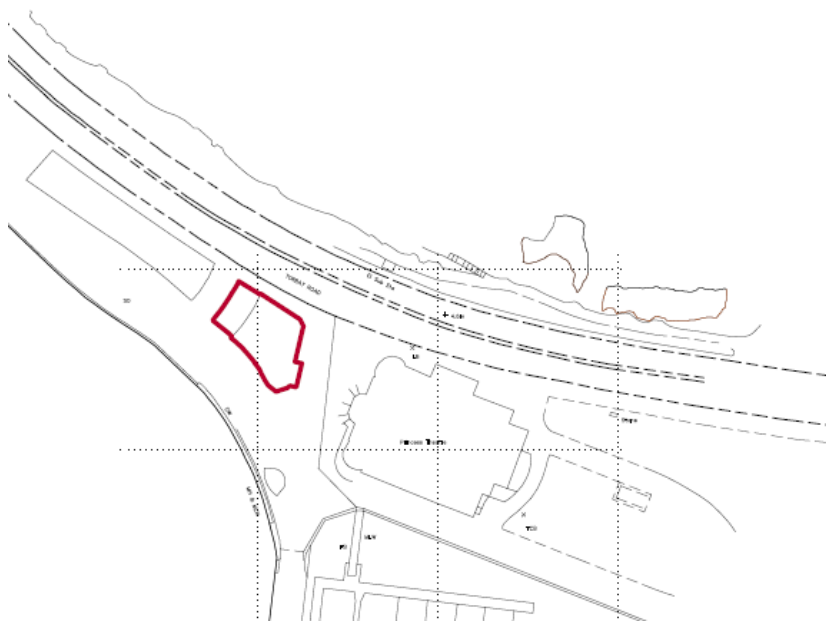




Application Site Address	Pier Point Café, Torbay Road, Torquay, TQ2 5HA
Proposal	Alterations and extension to existing restaurant to incorporate takeaway element. Change of use of retail element to restaurant/takeaway elements only.
Application Number	P/2020/1288
Applicant	Arnold & Moreton
Agent	Narracotts Architects
Date Application Valid	14/01/21
Decision Due date	11/03/21
Extension of Time Date	10/05/21
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing & Climate Emergency.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee as the site is owned by Torbay Council.
Planning Case Officer	Sean Davies

### **Location Plan**



### **Site Details**

The site at Pier Point Café, Torbay Road, Torquay, TQ2 5HA is a detached café/restaurant and its curtilage. The site is in the Belgravia conservation area, on the boundary of the Torquay harbour Conservation area, within the Torquay Core Tourism Investment Area and is adjacent to and partially includes the Princess Gardens and Royal Terrace Gardens, which has been designated as a Registered Park and Garden.

### **Description of Development**

Alterations and extension to existing restaurant to incorporate takeaway element. Change of use of retail element to restaurant/takeaway elements only.

The proposals would replace the existing outdoor seating area with a fully glazed retractable roof. The height of the roof of the existing café would not be altered. Internally the location of the existing restaurant/dining area, bar, WCs, staff and prep areas would remain largely unchanged. An existing takeaway counter and kiosk at the southern corner of the site would also be retained. Existing glazing in all elevations would be replaced and improved, with extensive use of full height glazing, including around all three sides of the existing outdoor seating area. The side of the building facing the sea (south west) would be remodelled with the existing curved and angular side replaced with a straight and vertical side with sliding doors. The angled profile of the windows facing Torbay Road would be retained. Adjustments to the arrangement of roof plant (i.e. extraction and odour control equipment) would also be made.

### **Pre-Application Enquiry**

None.

### **Relevant Planning Policy Context**

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

Development Plan

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

Material Considerations

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

### **Relevant Planning History**

CN/2020/0047: Discharge of Condition relating to application P/2019/1341. Condition: 03 - Waste Management. APPROVED.

P/2020/0383: Alterations and extensions to existing restaurant including change of use of part of site from retail (A1) to restaurant (A3) - Revised Plans Received APPROVED.

P/2019/1341: Alteration to existing opening to form counter for hot food takeaway. Addition of A5 Class to existing A3 Class. APPROVED.

P/2017/0638: First floor extension, terrace and alterations to restaurant & bar, solar PV and associated works.(Revised Plans received) APPROVED

DE/2014/00666: Proposed roof terrace with external stair access and fire exit PRE-APPLICATION ADVICE

P/2013/1121: New door opening formed within existing glazed panel and sill to provide additional fire exit and means of escape APPROVED

P/20017/0913: Change Of Use To Provide Tables And Chairs To Front Of Venue.

## **Summary of Representations**

Approximately three responses received.

Approximately one representation from a member of the public has been received. Concerns raised included:

- Disappointment with design: "Gone is the second floor. Gone, what could have been an iconic building in favour of a simple refurbishment".
- Work has already started.

Approximately one objection has been received from Torbay Coastal Heritage Trust.

Concerns raised include:

- The submitted Heritage Statement is inadequate.
- the Design and Access Statement is inaccurate; concerns about design; in particular the outdoor terrace.
- The proposals would impact negatively on the Belgravia and Torquay Harbour conservation areas.
- Inadequate car/cycle parking.
- Noise impacts.
- Impacts on trees.
- An existing lead to shed next to the main building doesn't have planning permission.
- Concern that works have started in advance of planning permission.
- Concern about lack of waste storage facilities

Approximately one representation in support has been received from Torbay Friends of the Earth in relation to the design of the proposals and commenting that take away materials should be bio-degradable.

### **Torquay Neighbourhood Forum:**

No response received.

### **Historic England:**

No objections. Request that the LPA consider the following recommendations:

- the Local Planning Authority (LPA) pays careful attention to (i) the cladding panels and sign fascias that will be used; (ii) the potential for air conditioning units, solar panels etc. to be installed on the roof in future and considers removing permitted development rights.
- the LPA considers securing a financial contribution towards the aspirations set out in the adopted masterplan for the Princess Gardens and Royal Terrace Gardens and the the adopted Conservation Area Appraisal and Management Plan for Torquay Harbour.

### **Torquay Drainage Department:**

No objection Provided the resilience measures included within the site specific flood risk assessment are included within the final construction.

### **Torquay Arboriculture Department:**

No objection.

### **Torquay Community Safety Department:**

No objection. Comments:

- Ensure there is an adequate number of wash hand basins throughout the different locations of the kitchen, including to the takeaway servery, ice cream kiosk and staff toilet
- Toilet provision to comply with recommended standards. All toilets will need a lobby (e.g. 2 doors) between the toilets and any food preparation/storage areas and they must have sufficient mechanical or natural ventilation.
- If new kitchen ventilation is to be installed to treat and disperse emissions from cooking operations on the premises then the developer would be best advised to have reference to the following document: Control of Odour and Noise from Commercial Kitchens Exhaust Systems – 2004 (Update prepared by NETCEN for the Department for environment, Food, and Rural Affairs). Following installation, the equipment shall be operated and maintained in accordance with manufacturer's instructions for as long as the proposed use continues.
- The premises must comply with the Health Act 2006 to ensure all enclosed areas are smoke-free. Any designated smoking areas must comply with the legislation and be non-substantially enclosed. The external dining space would be classed as enclosed under this legislation when the roof is in place and therefore this area would be required to be non-smoking.

**Police:**

No objection. Request that the LPA consider the following recommendations:

- Installation of CCTV and lighting to external areas.
- Appropriate storage for outdoor furniture.
- Bin store to be secure, covered by CCTV and ideally sited away from main building elevation.
- All new doors and accessible windows to be sourced as tested/certified products to provide adequate security.
- Doors to be flush with building line to avoid creating hidden recessed areas.
- Elevations to be treated with anti-graffiti finish.
- A management plan should be agreed prior to approval to ensure that the use of the external areas are well managed and regularly supervised by staff

**Key Issues/Material Considerations**

1. Principle of Residential Development
2. Visual impact
3. Amenity
4. Transport and accessibility
5. Parking and access requirements
6. Ecology
- 7 .Flood risk and drainage

**1. Principle of Residential Development**

The proposal seeks permission for Alterations and extension to existing restaurant to incorporate takeaway element. Change of use of retail element to restaurant/takeaway elements only. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

**2. Torquay Town Centre and Harbour**

Policy SDT2 of the Local Plan states that Torquay Town Centre will develop as the largest retail and leisure centre of the Bay and become the key sub-regional retail and leisure destination, helping to provide an improved vibrant and more enjoyable shopping and leisure environment with better eating and leisure facilities.

Officers consider that the proposals would assist towards the aim of providing a more vibrant and enjoyable leisure experience within the town centre.

The proposal is therefore considered to be in accordance with policy SDT2.

### **3. Evening and night time economy**

Policy TC5 of the Local Plan states that the Council supports development that helps create a vibrant, diverse evening and night time economy within town centres, seafront and harbour areas of the Bay.

Officers consider that the proposals would contribute to this aim by providing an attractive venue likely to draw local people and visitors to the harbour area.

The proposal is therefore considered to be in accordance with Policies TC5.

### **4. Tourism**

Policy TO1 of the Local Plan states that tourist facilities will be improved and modernised in order to attract new visitors, particularly overnight visitors, and increase overall spend. Further, that the Council will support the retention and improvement of high quality tourism and leisure attractions and facilities in sustainable accessible locations, with a particular focus on Core Tourism Investment Areas (CTIAs).

The site is within the Torquay CTIA. Officers consider that the proposals would improve the tourism offer of the CTIA and would contribute to attracting new visitors, including overnight visitors, and overall spend.

The proposal is therefore considered to be in accordance with Policy TO1.

### **5. Visual impact**

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

An objection has been made by Torbay Coastal Heritage Trust about the design of the proposals. In particular about the visual appearance of the proposed enclosure of the existing outdoor seating area and about an existing bin store to the side of the building, which is said to be unauthorised development.

A member of the public has objected about the omission of the second floor included in previous proposals. One representation (Torbay Friends of the Earth) has also been made in support of the design, principally as the second floor included in previous proposals has been omitted.

Historic England has commented that:

*“Historic England finds that the proposed alterations will improve the appearance of the existing building, the setting of the RPG and the experience of users of the theatre and pedestrians, and will encourage users to move westwards into the sunken gardens and better appreciate the further reaches of the RPG. The facade facing the theatre is*

*more utilitarian with a possible bin enclosure added to the side, but nonetheless is also an improvement on the existing arrangement.”*

The existing site is a 1950s/1960s café building with an outdoor seating area. It is understood that it currently operates as a café/restaurant (use class A3) and a shop (use class A1) - now both Use Class E. Also as a hot food takeaway (sui generis use). So the proposal would be a mixed use - Class E and sui generis take away.

The proposals would replace the existing outdoor seating area with a fully glazed retractable roof. The height of the roof of the existing café would not be altered. Internally the location of the existing restaurant/dining area, bar, WCs, staff and prep areas would remain largely unchanged. An existing takeaway counter and kiosk at the southern corner of the site would also be retained. Existing glazing in all elevations would be replaced and improved, with extensive use of full height glazing, including around all three sides of the existing outdoor seating area.

Officers consider that the proposals will significantly improve the visual appearance of the site and that the proposed enclosure of the existing outdoor seating area will blend in well with the existing structure.

At roof level a number of existing roof lights and four air handling units would be removed. Nine new air handling units would be provided towards the middle of the roof, together with two deoderiser extractors which would be covered by an enclosure to match the existing roof and three serve duct/air intakes. It is understood that all proposed roof plant has now been installed. The aforementioned cover for the deoderiser units has not yet been provided. The existing rooflights and some of the air handling units to be removed are still in place.

The applicant has responded to points made by the Police by supplying a full CCTV plan and confirming that no furniture will be left out over-night.

The existing bin store is understood to have been in place for a number of years. Officers have discussed the prospect of improving the visual appearance of the bin store with the applicants through the provision of a small rendered block work store attached to the main building in the current location of the bin store in order that it may blend in more with the main building. However the applicants have declined to do this and, as the bin store is existing and has been in place for some time officers do not feel that the retention of the bin store in its current condition amounts to a reason for refusal.

The proposal is therefore considered to be in accordance with Policies DE1 and TH8.

## **6. Amenity**

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

An objection has been made about noise impacts associated with the proposals. However, officers do not consider that the development would result in any significant increase in noise as compared with the existing development. Noise has not been raised as an issue by Torbay Community Safety Department.

The applicant has confirmed that the points made by Torbay Community Safety Department will be addressed during final construction and that odour control extraction systems have

already been installed. Planning conditions will be used to ensure that the points made by Torbay Community Safety Department are actioned.

Given its siting, scale, and design, it is therefore considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. The proposals are therefore considered to be in accordance with Policy DE3.

## **7. Conservation and the Historic Environment**

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Also that proposal that may affect heritage assets will be assessed in view of their impact on listed and historic buildings and their settings.

The site is in the Belgravia conservation area, on the boundary of the Torquay Harbour Conservation area, and is adjacent to and partially includes the Princess Gardens and Royal Terrace Gardens, which has been designated as a Registered Park and Garden.

An objection has been made that the submitted Heritage Statement is inadequate and that the proposals would harm the character of the Belgravia and Torquay Harbour conservation areas.

Balanced against this, Historic England has commented that:

*“Historic England finds that the proposed alterations will improve the appearance of the existing building, the setting of the Registered Park and Garden”*

Officers concur with this view and consider that the proposals would conserve and enhance the appearance of the conservation areas as well as nearby heritage assets.

As mentioned above, while there is clearly scope to improve the appearance of the existing bin store and in so doing to enhance the character of the conservation area officers do not feel that the retention of the existing bin store amounts to a reason for refusal in this case.

Historic England has recommended that the Local Planning Authority seek contributions from the applicant towards the adopted Masterplan for the Registered Park and Garden and the adopted Conservation Area Appraisal and Management Plan for Torquay Harbour. Officers have considered this but do not believe that a contribution is warranted.

The proposals are therefore considered to be in accordance with Policy SS10.

## **8. Parking and access requirements**

Policy TA3 of the Local Plan states that the Council will require appropriate provision of car, commercial vehicle and cycle parking in all new development.

An objection has been made that the proposals do not include any car or cycle parking.

The applicant has confirmed that the proposals do not include any material increase in staffing levels (12 full time and six part time staff rising to 15 full time 15 part time staff) and or seating capacity.

Given that there is no car or cycle parking associated with the existing site officers consider that the proposals do not require any new parking provision in this case. The local area is well served by public parking, both along Torbay Road and at nearby car parks.

The proposal is therefore considered acceptable with regards to Policy TA3.

### **9. 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 within Flood Zone 3. Torbay Drainage Department has confirmed that it has no objection to the proposals provided the resilience measures included within the site specific flood risk assessment are included within the final construction.

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

### **10. Waste**

Policy W1 of the Local Plan states that all development proposals should provide a scheme of sustainable waste management proportionate to the scale of the proposal. Policy W2 requires that Development proposals which are likely to generate significant volumes of waste must include a Waste Audit and Five Year Waste Management Plan setting out how waste generation will be reduced during the construction and operation of the development. This will include provision of appropriate on-site facilities for reuse, recycling (composting where appropriate) and collection of waste. Schemes should include measures to:

1. Prevent and minimise, re-use and recycle waste (including composting where appropriate);
2. Minimise the use of raw materials;
3. Minimise the pollution potential of unavoidable waste;
4. Seek alternative modes of transport (to the use of roads) to move waste;
5. Make provision for the storage and collection of waste. Planning contributions for off-site waste management facilities may also be required; and
6. Dispose of unavoidable waste in an environmentally acceptable manner;

An objection has been made that the proposals don't include details of waste storage.

The proposal includes an existing bin storage area. The proposal includes a takeaway counter. Therefore a planning condition will be used to require the submission of a Waste Management Plan to ensure that the use of plastic containers are minimized, local litter bins are not subject to undue pressure and seagulls are managed.

Following the use of this condition, the proposal is considered to comply with Local Plan Policies W1 and W2.

### **11. Trees**

Policy C4 of the Local Plan states that development will not be permitted where it would harm veteran or protected trees.

An objection has been made about the proposals' possible impact on trees.

There is a London Plane tree along Torbay Road north east of the site. However Torbay Arboriculture department has been consulted on the proposals and has not raised any concerns.

The proposal is therefore considered to be in accordance with Policy C4.



## 12. Climate Change

Policy SS14 of the Local Plan states that development should be resilient to the local climate commensurate to the use of the proposal and should avoid responses to climate impacts which lead to increases in energy use and greenhouse gas emissions.

The applicant has confirmed that “energy efficient light fittings are installed throughout, whilst similar energy efficiency has been achieved by means of upgrading all the Kitchen and associated equipment. All new doors and windows will be double glazed and rated for severe exposure, thus ensuring the heat loss from the building and therefore the associated running costs will be reduced”.

It is considered that this approach demonstrates a proportionate response to the minimisation of carbon emissions at the site.

The proposal is therefore considered to be in accordance with Policy SS14.

### **Local Finance Considerations**

#### **S106:**

Not applicable.

#### **CIL:**

The CIL liability for this development is Nil.

#### **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**

This report gives consideration to the issues raised in the objections received and concludes that these are not of sufficient weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal. The presumption in favour of sustainable development together with the benefits that the proposals would bring to the local economy and to safeguarding the long future of the Torquay town centre and Harbour area, the environment and social benefits associated with an improved leisure offer all weigh in favour of the development and mean that approval should be granted in this case.

### **Proactive Working**

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

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

The proposal is: acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; and would provide acceptable arrangements in relation to access and parking, flood risk, and ecology. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material

considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below and subject also to no new material planning considerations being raised within the remaining consultation period. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning, Housing and Climate Emergency.

### **Conditions**

1. Prior to the installation of any external building materials, including cladding, render, windows and doors, the proposed materials (including samples) shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the Belgravia Conservation Area in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012-2030.

2. The development shall be carried out in accordance with the recommendations set out in the Memorandum from Torbay Community Safety Department dated 15/02/21 (document reference SRU No. 261319).

Reason: In the interest of visual amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

3. Within 8 weeks of the commencement of the development hereby approved, or prior to its installation, details of any external ventilation, extraction or odor control equipment or other plant shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

4. The development hereby approved shall be undertaken in full accordance with the mitigation measures contained in the flood risk assessment dated May 2020, received 03/02/21 (document reference 2386 FRA Rev A) and shall be retained as such thereafter.

Reason: In the interests of flood safety and in accordance with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

5. The development hereby permitted shall not be brought into use until a detailed Waste Audit and Waste Management Plan, has been submitted to and approved in writing by the Local Planning Authority. Once provided, the agreed scheme shall be adhered to for the lifetime of the development.

The scheme shall include full details of the following:

- 1) How waste will be minimized as far as possible.
- 2) The storage of refuse and recycling awaiting collection.
- 3) Where customer bins will be provided on site.
- 4) How the development will prevent and minimise, re-use and recycle waste and promote the use of recyclable containers.

5) How the development will dispose of unavoidable waste in an environmentally acceptable manner.

6) How the development will address additional pressure on nearby public litter bins.  
Reason: In interests of managing waste in an appropriate manner and in accordance with Policies W1 and W2 of the Torbay Local Plan 2012-2030.

6. The development hereby approved shall not be open to customers outside of the following times: 0800 to 00:30 Monday to Sunday.

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

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), the building hereby approved shall not be used for anything other than the sale of food and drink for consumption on or off the premises and ancillary retail sales, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of the Core Tourism Investment Area and maintaining the vitality of Torquay seafront and in accordance with Policies TO1 and TE5 of the Torbay Local Plan 2012-2030.

8. The development hereby permitted shall not be brought into use until the CCTV plan received 23/03/21, document reference P2020-1288-4 has been installed. Once installed the CCTV system shall be maintained in operation for the lifetime of the development.

Reason: Reason: To ensure an acceptable form of development in the interests of designing out crime in accordance with Policy DE1 of the Torbay Local Plan 2012-2030.

### **Development Plan Relevant Policies**

TA1 - Transport and accessibility

TA3 - Parking requirements

DE1 - Design

DE3 - Development Amenity

ER1 - Flood Risk

NC1 – Biodiversity and geodiversity

TH9 – Parking facilities

TH8 – Established architecture

TE5 – Protected species habitats and biodiversity