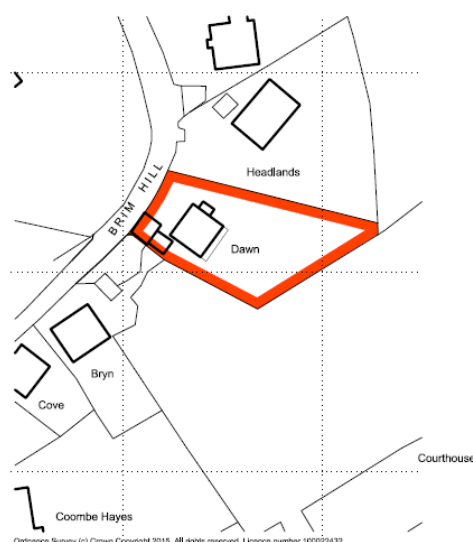


Application Site Address	Dawn, Brim Hill, Torquay, TQ1 4TR
Proposal	Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration (part retrospective).
Application Number	P/2020/1044
Applicant	Mr Tony Payne
Agent	DJMA Architects Ltd
Date Application Valid	27/11/20
Decision Due date	22/01/21
Extension of Time Date	N/a
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	Councillors have referred the case to Planning Committee.
Planning Case Officer	Sean Davies

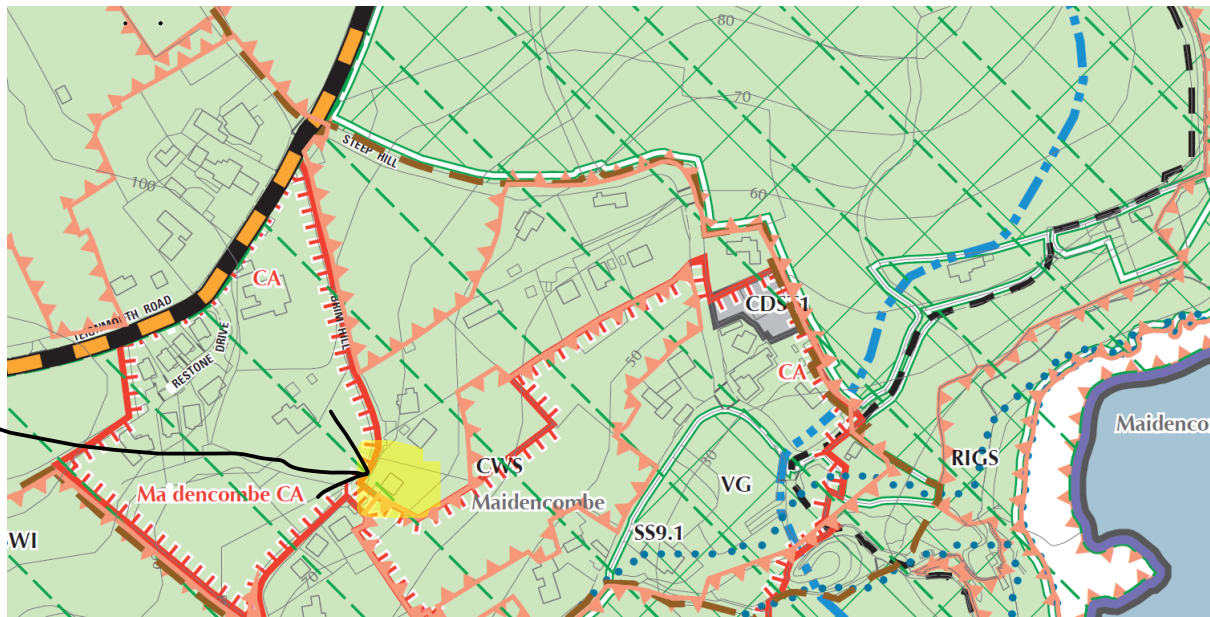
## Location Plan



## Site Details

The site at Dawn Brim, Torquay, TQ1 4TR is a detached dwelling and its curtilage. The site is within the Countryside Area and Undeveloped Coast as mapped in the Local Plan and falls within the Maidencombe Village Envelope. The site is just outside the Maidencombe conservation area. The boundary of the conservation area runs along the south and west boundary of the site and along the middle of Brim Hill outside the front of the site to the

north. The site is within a Landscape Connectivity Zone within the South Hams Special Area of Conservation for Greater Horseshoe bats.



- Light green - Countryside Area
- Mid green dotted line hatch – Undeveloped Coast
- Blue dash/dot/dot line – Coastal Change Management Area
- Black dotted line – SW Coast Path
- Brown dotted line – Maidencombe Village envelope
- Red toothed line – Maidencombe conservation area
- Blue circular dots – Flood Risk Area
- Orange teeth – woodland/wildlife site (included WITHIN the teeth)

### **Description of Development**

Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration (part retrospective).

The proposals are substantially similar to those granted approval in 2016 (P/2016/0471) subsequently successfully varied in 2018 (P/2018/0131).

#### **Single storey lower ground floor extension to rear (SE) with terrace over**

This element involves providing a new lower ground floor single storey rear extension running across the full width of the building plus the width of a new side extension. This extension would be approximately 1.4m deep. There would be a terrace over this extension to be accessed directly from new glazed doors at upper ground floor level in both the existing building and afore mentioned side extension (note: there is already a terrace in this approximate position across the full width of the existing building). The side of the terrace facing south west (towards Bryn) would be capped with a stone wall and opaque glazed privacy screen.

At lower ground floor level an existing decking area would be replaced, with vertical timber cladding from the level of the decking to the ground approximately 2m in height.

This element of the proposals is substantially the same as the previously approved scheme except that details of fenestration have changed and a new rear facing window is now proposed from a new en-suite bathroom to be formed in the north east elevation. The decking is also slightly higher

#### Two storey side extension (SW)

This element involves a sedum flat roof side extension running from the back of the existing garage to the rear of the existing building. The sloping nature of the site means that this extension would have two storeys at the rear and one at the front. The front part of the extension would house a utility room and W/C. At the rear there would be a new bedroom at lower ground floor level and a cinema room at upper ground floor level. The former would have glazed doors leading onto the terrace described above. The latter would have glazed doors onto the existing decking. The side of the extension would be faced with natural stone. The main differences between this element of the proposals and the previously approved scheme are that (i) previously approved curved glazing at upper ground floor level in the rear of the extension is now replaced with flat glazing parallel to the front of the terrace mentioned above, increasing its footprint slightly; (ii) the stone faced side of the extension (facing Bryn) would extend further to the rear elevation of the existing dwelling at upper ground floor level (replacing the previously approved curved glazing); (iii) there would be a new second small window in the side of the extension at lower ground floor level to the proposed bedroom.

The extension would be approximately 4.7m wide, 12.8m long and set back approximately 1m from the boundary with Bryn. It would fit under the eaves of the main dwelling and would be approximately 5.2m high above the level of the existing decking at the rear.

#### Single storey upper ground floor extension to side (NE) and changes in fenestration

This element of the proposals involves enlarging an existing single storey extension in the side of the dwelling facing Headlands. The extension currently forms the porch providing entrance to the dwelling. The proposals would bring this extension forwards by approximately 2m so that it was flush with the front of the main dwelling and re-purpose it as an en-suite/wardrobe to bedroom 3. The existing pitched roof would be raised to accommodate the greater width of the extension.

There would also be a new floor to ceiling height window at the rear of the building.

These elements of the proposals remains the same as in the previously consented scheme.

#### Changes to fenestration at front (NW)

At the front of the building a new front door would be sited between the existing bay windows. The left hand of these bay windows (when viewed from the front) would be moved to the edge of the building and the existing pitched roofs over both bay windows would be made higher. This element of the proposals remains the same as in the previously consented scheme.

#### Raise roof ridge line and change roof profile to form attic room

The roof of the existing dwelling would be raised approximately 1m to accommodate a new bedroom. This would have roof lights in the north west, north east and south east elevations and a small recessed balcony at the rear.

There would also be a new chimney in the south west side of the roof.

These elements of the proposals remains the same as in the previously consented scheme.

The plans as originally submitted included an error in the existing ridge height – the spot height indicating it to be 10m higher than it is. The applicant has been asked to provide revised, accurate plans updating this spot height. Visually there will be no change to the plans however.

### **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/2018/0068: Discharge of conditions 1,3 & 8 (of approval P/2016/0471/HA - Varied by P/2018/0311 - Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height. Re-Submission of P/2015/1025) - Cond 1: Stone sample. Cond 3: Lighting. Cond 8: Bat licence. APPROVED

P/2018/0311: Variation of condition P1 (approved documents) of application P/2016/0471 (Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height) Alterations sought: Raise in ridge height, alterations to fenestration including glazing on south east and north east elevation and relocation of roof window in sedum roof. APPROVED

P/2017/1290: Non Material amendment re P/2016/0471 (Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height) - Change of roof material WITHDRAWN

P/2017/1292: Non Material Amendment on application P/2016/0471: Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height (Re-Submission of P/2015/1025) (Revised description). Amendment sought: Alterations to glazing on south east and north east elevation. Roof window in sedum roof moved. WITHDRAWN

P/2016/0471: Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height (Re-Submission of P/2015/1025) (Revised description) APPROVED

P/2015/1025: Extensions and alterations including side & roof extensions & extended terrace & balcony REFUSED

DE/2015/0017: Joining of utility room to main dwelling house to include small extension. SPLIT DECISION

P/2014/0913: Proposed extension to Southwest facing elevation and alteration to existing roof REFUSED

P/2007/0574: Conversion of Outbuildings to Ancillary Accommodation APPROVED

### **Summary of Representations**

Approximately 15 representations have been made.

Representations comprise approximately 14 objections and one representation made in support by the applicant's agent in response to some of the objections made. Some organisations and neighbours have made more than one objection:

### **Support**

#### **Daniel Metcalfe (the applicant's agent).**

- The applicant does not agree that permission P/2016/047 has lapsed
- The tick box interpretation of Local plan and Neighbourhood Plan policies (i.e. by Torquay Neighbourhood Forum) is highly subjective.
- The proposals are being assessed against the same Local Plan policies that they were assessed against in 2016 and have already been found to be compliant with these.
- Policies in the Torquay Local Plan have reciprocal policies in the Local Plan and do not introduce new requirements.
- Not all of the policies in the Torquay Local Plan identified by the Torquay Neighborhood Forum are relevant i.e. policies TH10 and TH11, which specifically refer to listed buildings and conservation areas (the site is not a listed building and is not in a conservation area)
- Elements of the proposals could be carried out using permitted development rights.
- *"The roof ridge heights and roof design are precisely as that approved under P/2016/0471. Ridge heights are indicated on the elevation drawings and relate to a level established in a measured survey..."*
- The applicant disagrees with the assessment made by Clarke Wilmott solicitors that the "principle elevation" of the elevation is the rear elevation and asserts that the principle elevation is the elevation facing the road i.e. Brim Hill (this effects what can be built under Permitted Development rights).
- Some objections refer to the removal of trees. The trees in question were in fact overgrown bushes. This is legal since the applicant planted these himself after the area wide Tree protection Area covering the site was introduced (1986) and as the site is not in a conservation area.

## Objections

### Torquay Neighbourhood Forum

The Neighbourhood Forum has made a single objection (see below). Sub Total = 1 objection,

### Representative bodies

Torbay Heritage Trust has made two objections. Maidencombe Community Group has made three objections. Maidencombe Residents Association has made one objection (identical to that made by Torquay Neighbourhood Forum). Sub Total = 6 objections.

(Note, the membership of these bodies is not known).

### Nearby properties

Two objections have been received from the property known as Bryn (including one objection made by Clarke Wilmott Solicitors on behalf of the occupier of Bryn). Single objections from properties near to the site have also been received from occupants of properties known as Wendy, Home Orchard and the Courthouse. Sub Total = 5 objections.

### Other properties

Objections have also been received from the occupant of a property known as Oakdene on Sladnor Park Road and Wekiva on Teignmouth Road. Sub Total = 2 objections.

Total = approximately 14 objections.

A summary of objections is provided below. For the complete avoidance of doubt Councillors should consult the Torbay website and read all objections in full.

### Torbay Coastal Heritage Trust (uploaded 05/01/21)

- Various concerns that the submitted Design and Access Statement is misleading, that the design is unsuitable for disabled people (contrary to assertions made in the D&A).
- Concerns about how the Maidencombe conservation area is viewed and that “*significantly the Dawn development site is located harmfully on an axis with two Grade II listed buildings to the front and rear...*”
- Concerns that the proposals would be overbearing on the Brim hill cluster of buildings, would have a detrimental impact on listed and key buildings overlooked below.
- Removal of trees.

### Torbay Coastal Heritage Trust (uploaded 27/01/21)

- Various points in relation to the letter sent by the applicants agent dated 15/01/21.

### Maidencombe Community Group (04/01/21)

- Application form contains error as states work has not started without consent even though previous permission (P/2016/0471) has lapsed.
- Proposals are contrary to policy TH12 of the Torquay Neighbourhood Plan as scale, height, footprint, location and massing not in keeping with built surroundings and does not respect local character/conserves or enhance heritage or landscape assets where impacted.
- Scale of proposal contrary to policy DE1 subsection 14 of the Local Plan as does not relate to surrounding built environment in terms of scale, height and massing.
- Proposals are contrary to policy TH8 of the Torquay Neighbourhood Plan as does not reflect local character (height, scale, bulk and identity of surroundings).

- Proposals contrary to Policy TH11 as do not protect or enhance character or setting of conservation area.
- Proposals contrary to policy DE3, subsections 1, 3 and 4 of the Local Plan due to visual intrusion, overbearing scale, overlooking, privacy and light pollution.
- Proposals contrary to policy SS8 of the Local Plan due to lighting impacts on local environment.
- Concern that proposals would double the original footprint and substantially increase massing.
- Concern that the LPA should be consistent with other planning decisions at nearby sites and that approval would set a precedent for further inappropriate development.
- The proposal would build up to the south west boundary of the conservation area with no possibility of screening – difficult to see how proposed two storey extension can be built without encroaching on conservation area.
- Concern that previous applications to develop the plot adjacent to the south west boundary have been refused – concern that if approval granted for current application and for development on the adjacent site then this could lead to an unacceptable bulk of buildings in a confined space.
- Concern that submitted plans deficient and that application cannot be determined: very few measurements, plans contain “do not scale from this drawing” notation, proposed layout misleading as proposed extensions are faint, dotted line indicating current roof line inaccurate. No information provided as to current and existing roof heights. There are also inconsistencies in the plans (garage roof in NE/SE vs NW elevations, terrace/decking at lower ground level in SW and NE elevations).
- Southwest elevation: Proposed roof height unclear; not clear what proposed roof attic internal layout is; concerns about footprint of proposed decking; concern about effect of boundary wall on character of area.
- Southeast elevation: concerns about increase in footprint, height and use of glazing – out of character with local area. Plans misleading.
- Northwest elevation: garage has different roof to other elevations. Plans unclear.
- Northeast elevation: replacement decking not shown. Proposed ground floor window and veranda has potential to overlook Headlands.
- Proposed layout and footprint: plans misleading.
- Permitted development rights: “Fall Back position” as described in Design and Access Statement is unrealistic.
- Surface flooding and rise in water table: concerns about drainage arrangements. Local properties rely on private sewage systems as there is no mains drainage and that proposals would increase impermeable area of development, leading to private drainage systems becoming inoperable.

#### Maidencombe Community Group (22/01/21)

Comments made in response to letter from applicant's agent dated 15/01/21:

- 2016 permission (P/2016/0471) has lapsed and so should not be taken account of in determining current application.
- Concern that application is assessed against policies in Torquay Neighbourhood Plan.
- Claim that proposed development could be progressed under permitted development rights incorrect for reasons set out in objection submitted by Clarke Willmott solicitors.
- Trees have been removed at the site without planning permission.

#### Maidencombe Community Group (26/05/21)

- The “Fall Back” position advanced by the applicant has not been adequately assessed and cannot be implemented
- Concern that a new (as opposed to updated) ecological assessment was not requested .
- Surface water drainage was not been adequately addressed Torbay drainage engineer has not been consulted.
- Concern that previous 2016 permission has expired,

- Contrary to 23 Policies in the Torbay Local Plan and Torquay Neighbourhood Plan.
- The similarity of the proposals to those granted permission in 2016 and 2018 are not grounds for approval .
- Number of objections must be accorded significant weight'
- Should not legitimize an illegal development that has been built without consent .
- Concern that the submitted plans are deficient. In particular roof heights are not clear and datum levels are unclear.
- *"Disagree that the 'proposals are of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes"*
- Overbearing in respect of neighbouring properties and would lead to loss of privacy to neighboring properties.
- *Concerns were raised about officer integrity in how this case has been handled, these are serious and concerning allegations for which no evidence has been provided and which senior officers consider to be wholly unsubstantiated and inappropriate*

#### Maidencombe Residents' Association

- The proposals are contrary to the Local Plan Policies: SS1, SS3, SS8, SS9, SS10, C1, C2, C4, NC1, HE1, DE1, DE3, DE4, DE5, ER1, ER2, ER4. And also Torquay Neighbourhood Plan Policies: TS1, TH8, TH10, TH11, TH12, TE5.
- Permitted development rights, as described in the Design and Access statement, do not apply since the property pre-dates 1948.
- The application form states that work has started without consent but significant works have taken place.

#### The Bryn

- Application form contains errors which invalidate the proposals: work has started without consent, pre-planning advice received in 20115 is not relevant since relevant policies have come into force since this date.
- Proposals should be determined as a new application and assessed against current planning legislation.
- Proposals contrary to policy TH12 of the Torquay Neighbourhood Plan. Scale, height, footprint (30-40% increase), location and massing out of keeping with built surroundings and overall physical characteristics of Village Envelope.
- Concerns about visual appearance of proposed two storey extension, lower ground floor extension, increase in ridge height, additional decking with store room below creating appearance of four storey dwelling.
- Building up to the boundary of the conservation area (south west) will prevent any tree planting to shield views.
- Proposals contrary to policy DE1 subsection 14 of the Local Plan requiring proposals to relate to surrounding built environment in terms of scale, height and massing.
- Proposals contrary to policy DE3 subsection 1 of the Local Plan by virtue of visual intrusion, overlooking and privacy. Workmen working on lower ground floor extension have been able to look directly into The Bryn. Height and depth of proposals mean they would completely overlook house and garden. As extension is to be built to edge of boundary it will not be possible to shield with trees etc.
- Proposals contrary to policies TH12, TH8 and TH11 of the Torquay Neighbourhood Plan.
- Proposals could jar with setting of grade II listed buildings and character of conservation area, affecting how conservation area is viewed and what can be seen from within it. Style, scale and materials are inappropriate.
- Increase in width along south east and extensive glazing does not respect character of neighbouring properties or setting of heritage assets in the Combe.
- Submitted plans contain very few measurements. A caveat "do not scale" means that



development could not be controlled if approved. Concern that increase in ridge height shown on plans is inaccurate and that roof will need to be raised by 1.5-1.8m.

- Proposed layout is misleading. A judge found against Torbay Council in a recent case that it is unlawful to approve plans which cannot be controlled.
- No other property in Maidencombe has been allowed to increase ridge heights, footprint or massing like this before.
- Claim that development could be progressed under permitted development rights incorrect due to restrictions placed on Classes A, AA and B and so the fall-back position does not carry weight in determining the application.

#### Clarke Wilmott Solicitors acting for The Bryn

- The planning application is deficient. Objection from Maidencombe Community Group sets out examples of ways submitted plans are wrong or inconsistent with result that development could not be constructed in line with submitted plans.
- Existing and proposed floor levels have not been provided – significant given sloping site.
- Ecological assessment deficient: out of date, does not acknowledge Landscape Connectivity Zone for South Hams Greater Horseshoe Bats SAC. Concern that light spill from additional glazing and proposed external lights should be assessed in relation to potential to disturb bats. Concern that development has not been designed with regard to the conclusions of the Ecological Assessment and that the Ecological Assessment has been carried out without having regard to the proposed plans (i.e. viability of proposed roosting opportunities for bats in brightly lit environment). Concern that a lighting assessment should be carried out to inform the updated Ecological Assessment.
- Concern that permission P/2016/047 has lapsed since works did not start on site until 2020 and that Torbay Council has not addressed a formal complaint made by the Maidencombe Community Group about unauthorised development.
- Concern that the application should be assessed against the Torquay Neighbourhood Plan, adopted in 2019 and that the LPA cannot lawfully seek to rely on the decision making process undertaken in respect of the 2016 application.
- Concern that the fall-back position as described in the Design and Access Statement (DAS) should not be treated as a material consideration since the General permitted Development Order does not permit the type of development shown in the DAS. Examples include: the principle elevation of the original dwelling house is actually the rear of the house as currently laid out (A1(e)). The side extension would have a width greater than half the width of the original (i.e. as originally built) dwelling house (A1(j)).
- The application should be determined as fresh application without regard to the previous 2016 permission as the development plan has changed. The objection made by the Maidencombe Community Group assesses the application against relevant policies – the objection made by Clarke Wilmott solicitors agrees with this assessment.

#### Home Orchard

- Application form contains errors and is not valid.
- Concerns about trees/hedgerow removal.
- Soakaways should not be used on steeply sloping ground. The proposed use of soakaways at the site could lead to private sewage systems working in reverse.
- Contrary to Policy TH11 and TH12 of the Torquay Neighbourhood Plan.
- Proposals would be overbearing and would result in overlooking to the conservation area and neighbours including the garden and swimming pool at Home Orchard.
- The site is within the mapped Countryside Area and Undeveloped Coast (Policies C1 and C2 of the Torbay Local Plan)
- The plans contain very few measurements and so cannot be assessed accurately and future development cannot be controlled.
- The proposals would be harmful to dark skies.
- Concerns about tree removal.

### Wendy

- The proposals do not take account of policies TH8, TH11 or TH12 of the Torquay Neighbourhood Plan.
- The removal of natural shielding (trees etc.) to facilitate views has made development stick out from all over the Combe.
- Approval would set precedent for further inappropriate development.

### Court House

- Out of keeping with local area.
- Negative effect on appearance of conservation area.
- Visual impact on Grade ii listed buildings in Maidencombe.
- Increased run off and rising water table could impact on the Court House's foundations and septic tank.
- Construction work could destabilise ground leading to land slips.
- Previous approvals at site inconsistent with other refusal decisions at nearby sites.
- Previous consent P/2016/0471 has now lapsed.
- Torquay Neighbourhood Plan has now been adopted so policies now carry full weight.
- Approval would set precedent for overdevelopment of other properties.
- Submitted plans not easy to understand and there is note that they are not to scale.
- Concern that proposals would involve significant increase in height, footprint (extending to boundary (south west).
- Hedgerows and trees will be removed speculation that this work has already taken place.
- Extensive glazing to south east will cause significant light pollution in a dark area.
- Proposals are contrary to Torquay Neighbourhood Plan Policies TH11 and TH12.

### Wekiva

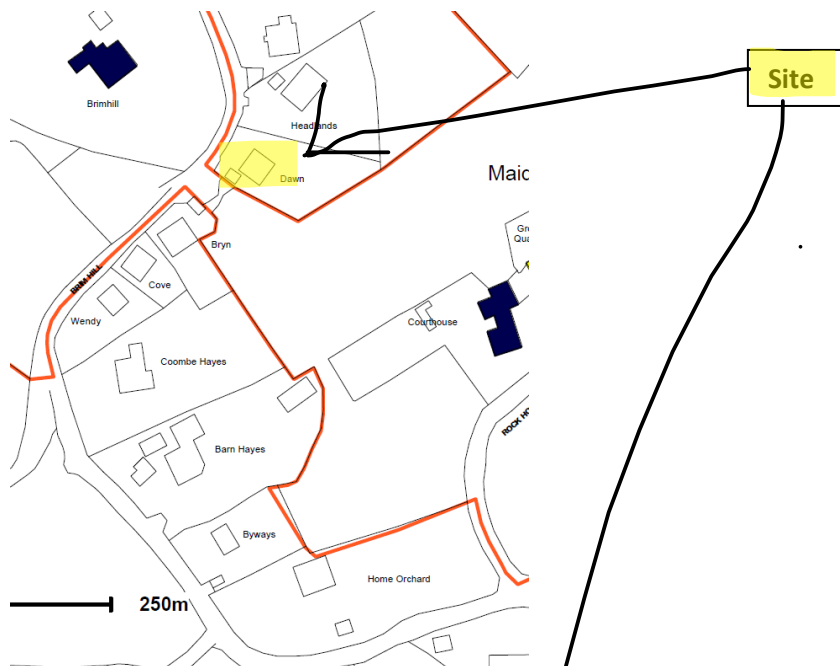
- Proposals area contrary to Torquay Neighbourhood Plan Policies TH8, TH10, TH11 and TH12.
- Scale, height, bulk and character of proposals are out of keeping with historic/rural character of Maidencombe and coastal setting.
- Site's boundary abuts conservation area on two sides – proposals would negatively impact on area and its heritage assets.
- Concern that the applicant's agent has close relationships with Torbay Council and the TDA which could influence the planning decision.

### Oakdene

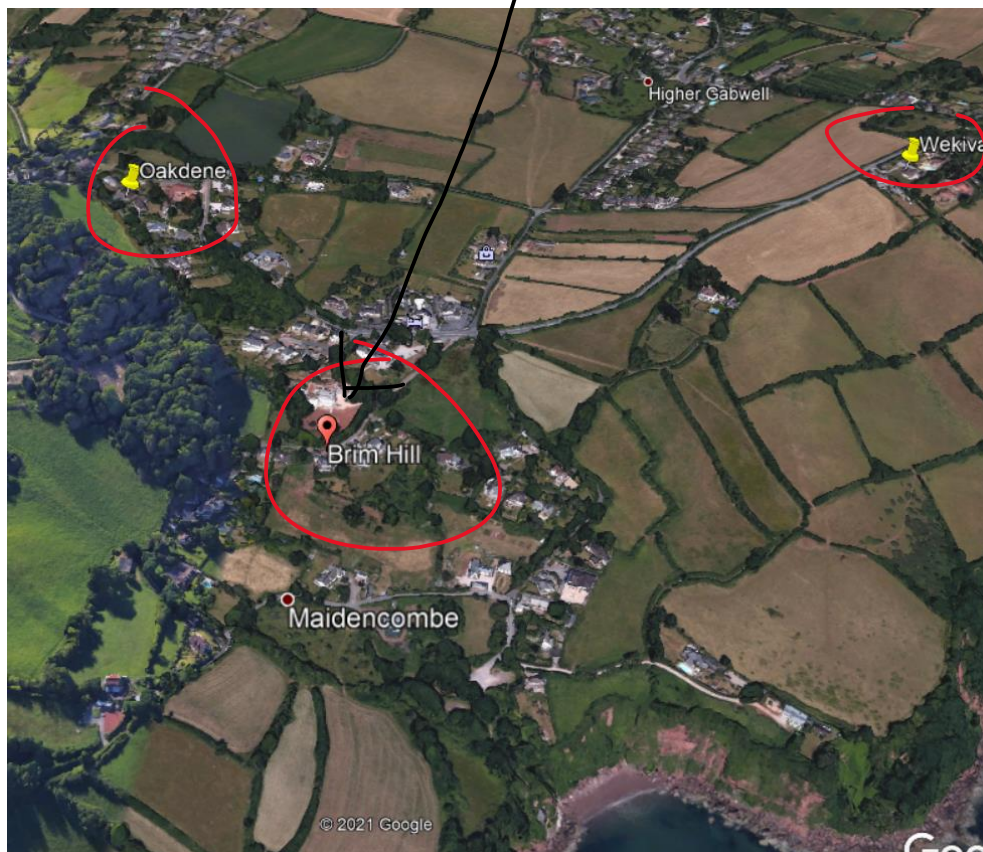
- Submitted application should be considered on its own merits and assessed against Torquay Neighbourhood Plan as previously consented application P/2016/0471 has lapsed.
- Proposals are contrary to Torquay Neighbourhood Plan Policies TH8, TH10, TH11 and TH12.
- Submitted plans are deficient as no structural dimensions or topographical information supplied and as plans are references as being not to scale.
- Concern that deficiencies in the plans mean that the LPA could not control construction if approval granted.
- Size, height bulk and mass contrary to numerous policies in Torbay Local Plan and out of character with local area.
- No meaningful environmental assessment on proposals' impact on conservation area, wildlife or Grade II listed buildings has been provided.
- Concern about impact of proposals on drainage in an area mapped by Environment Agency as Flood Risk 3.
- Claim that proposed development could be progressed under permitted development rights incorrect as property pre-dates 1948.

The locations of the properties that have registered individual objections are shown below for context:

The Bryn, Wendy, Home Orchard and the Court House



Oakdene and Wekiva (approx. positions)



### Summary note regarding objections

14 objections letters have been received, these have been made by approximately 10 bodies/neighbouring properties/other properties:

Torquay Neighbourhood Forum (1) (see below)  
Torbay Coast Heritage Trust (2)  
Maidencombe Community Group (3)  
Maidencombe Residents Association (1)

The Bryn (2)  
Wendy (1)  
Home Orchard (1)  
The Court House (1)

Oakdene (1)  
Wekiva (1)

In the interests of transparency Councillors are advised that the resident and objector at The Court House also submitted the response on behalf of the Torquay Neighbourhood Forum and the Maidencombe Residents Association.

### Torquay Neighbourhood Forum:

An objection has been received alleging that the proposals are contrary to the Local Plan Policies: SS1, SS3, SS8, SS9, SS10, C1, C2, C4, NC1, HE1, DE1, DE3, DE4, DE5, ER1, ER2, ER4. And also Torquay Neighbourhood Plan Policies: TS1, TH8, TH10, TH11, TH12, TE5.

**Torbay Development Agency Senior Structural Engineer:** *"Having investigated Building Control records I am satisfied that construction proposals associated with this Plan, including proposed foundation construction detail, are satisfactory. I am further satisfied that new structures have been constructed on site in accordance with engineering requirements.*

*I would suggest therefore that a Planning Condition for ground investigation for purposes of informing structural design, development having reached this stage, would not be appropriate".*

**Torbay Drainage:** "I would recommend a small amendment to the proposed condition in order to highlight the risk of flooding downstream. This is identified in bold below:

*Notwithstanding the details submitted in the Flood Risk Assessment surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change. Technical details of the soakaway design shall be submitted to and approved in writing by the local planning authority prior to commencement or continuation of any further development. **Due to the topography of the land and the risk of re-emergence of flows downstream, the soakaway design must also demonstrate that flows discharging from the soakaway will not result in an increased risk of flooding to property and land downstream of the proposed development"**.*

*If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement or continuation of any further development, details of an alternative means of surface water*

drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 40% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 40% allowance for climate change" conditions.

The new areas of development shall not be brought into use until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030. These details are required pre-commencement to ensure that a surface water drainage system is designed appropriately to appropriately manage flood risk having regard to the topography of the site.

**Devon County Council Ecologist:** "A Preliminary Ecological Assessment (Green lane Ecology February 2021) and a Bat Survey & Mitigation/Compensation Measures report (Green Lane Ecology, October 2020) has been submitted. The survey methods, presentation of results and recommendations are satisfactory. The survey results from the building inspection confirmed the use of the dwelling by roosting bats consisting of the following:

A single common pipistrelle bat was recorded emerging from the property in 2016. These survey results classified the property as an occasional summer non-breeding day roost for one single Common pipistrelle (*Pipistrellus pipistrellus*) bat. The surveys are now out of date to apply for a bat mitigation licence to disturb/destroy the roost legally and as a result a further two bat emergence/re-entry surveys were conducted in 2020 to update the previous surveys to inform bat mitigation/compensation measures and apply for a bat mitigation licence to ensure the legislation which protects bats is not contravened and the conservation status of the local bat population is maintained. The surveys in 2020 did not observe any bats emerge or re-enter the property; however the classification and conservation significance of the roost remains the same as in 2016. The proposed works will modify and destroy the identified bat roosts, and potentially cause disturbance or injury to any roosting bats present at the time of the proposed works. Therefore a European Protected Species Licence (EPSL) will need to be obtained from Natural England prior to the commencement of works – these works are applicable for the Bat Mitigation Class Licence (BMCL). The authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed. The first two tests (below) are essentially planning tests and are for you to conclude as case officer. The third test I have concluded below.

1. Imperative reason overriding public interest Establish the public interest (social, economic) which has some imperative nature (i.e. required soon) for undertaking this proposed development which overrides the retention of the building (and supported roosts) as they are at present
2. There is no satisfactory alternative Consider and discount alternatives – e.g. design/layout that would not require loss of the existing roosts – why these are unfeasible.
3. There will be no significant detrimental population impact (on the bats)

*A detailed mitigation plan sets out the following measures for bats:*

- *A bat box has been installed in a suitable tree since 2016 as a temporary roost location during the alterations and will be retained indefinitely.*
- *On the day which work will commence on the roof; all site operatives will be informed about the legislation which protects bats, how the property is being used by bats, how the work shall proceed with regards to bats and what to do in the event that bats are discovered during the work.*
- *Prior to work commencing a thorough inspection of the roof void and other external features will be carried out looking for bats; if any bats are discovered they will be safely removed by gloved hand and put into the bat box previously installed.*
- *The roost feature will be soft stripped by hand with a licenced bat worker in attendance to ensure that if any bats are discovered they can be safely removed by gloved hand and put into the bat box previously installed.*
- *15-20mm gaps will be created between the fascia board and the external wall with a south westerly aspect. An internal wall will prevent bats from entering the roof void whilst allowing them access to the top of the wall. It is imperative that bats are prevented from coming in to contact with modern breathable roof membrane which becomes lethal to them over time as they become entangled in its fibres.*
- *Two voids with access gaps into wall cavities will be incorporated into a south facing and north easterly facing wall.*
- *Two Schwegler 1FR bat tubes will be incorporated into the walls in two locations, one to face south and west.*

*It is my opinion that the survey results and mitigation measures included in the report satisfy the third test of the Habitats Regulations. If upon consideration of the first two tests you consider them met (I would draw your attention to the low conservation status of this roost which can be taken into account with respect the IROPI test), then it is reasonable to conclude that Natural England would grant a EPS licence. If this is the case, then please apply the conditions below.*

**Consultee recommendation:**

*Condition: The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements stated in the Preliminary Ecological Assessment (Green Lane Ecology February 2021), the Bat Survey & Mitigation/Compensation Measures report (Green Lane Ecology, October 2020) and Bat Low Impact Licence Method Statement along with any variation required by Natural England under any license it may issue.*

*This should be a condition of any planning consent. The planning condition shall be discharged when the consultant ecologist confirms in writing to the Authority that the recommendations have been implemented”*

**Key Issues/Material Considerations**

1. Principle of Residential Development
  - (a) Planning permission P/2016/0472
2. Sustainable growth
3. Environment
4. Transport
5. Countryside, coast and greenspace
6. Nature conservation
7. Historic environment
8. Design

- 9 . Conservation and the historic environment
- 10. Environmental resources
- 11. Special protection for rural village environments

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

The proposal seeks permission for Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

#### **(a) Planning permission P/2016/0472**

Objections have been made that planning permission P/2016/0471 has lapsed and so that statement made in the application form that works have not started without consent is incorrect. Also that the application is invalid because of this and that works already carried out are therefore unauthorised.

The Council believes that planning permission P/2016/0471 has lapsed and has advised the applicant of this, understood to have prompted the current application. Officers are content that the current application is valid. Works have commenced at the site. It is understood that works have been stopped whilst the application is determined.

### **Spatial Strategy and Policies for strategic direction**

#### **2. Sustainable growth**

Policy SS1 (Growth Strategy for a prosperous Torbay) of the Local Plan states that the Local Plan promotes a step change in Torbay's economic performance and identifies Strategic Delivery Areas. Policy TS1 (Sustainable development) of the Torquay Neighbourhood Plan states that states that development proposals should accord with policies in the Torquay Neighbourhood Plan unless material considerations indicate otherwise. Policy SS3 (Presumption in favour of sustainable development) of the Local Plan states that the Council will take a positive approach when considering development proposals and that planning applications that accord with policies in the Local Plan (and where relevant Neighbourhood Plans) will be approved unless material considerations indicate otherwise.

Objections have been made that the proposals are contrary to the Policies above. Reasons include that they do not safeguard the natural/built environment, are contrary to policies in the Torquay neighbourhood Plan and adversely affect the setting of Grade II listed buildings.

Officers have considered these points but do not believe that the proposals are contrary to any of these policies (further details are provided in the discussion below).

The proposals are therefore considered to be in accordance with Policies SS1, SS3 and TS1.

#### **4. Environment**

Policy SS8 (Natural Environment) of the Local Plan sets out that all development should have regard to its environmental setting. Policy SS9 (Green infrastructure) of the Local Plan states that the Local Plan seeks to integrate new development with strategic green infrastructure, and to protect and provide high quality green space at a local level. Policy SS10 (Conservation and the historic environment) 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.

Objections have been made that the proposals are contrary to the Policies above. Reasons include that excessive glazing will affect dark skies, “removal of trees bordering conservation area” and the impact that the proposals will have on the setting of listed buildings and the Maidencombe Conservation Area, the boundary of which skirts the site.

As noted above the proposals are substantially the same as proposals approved in 2016 and 2018. Officers consider that the amount of glazing proposed in the current proposals is substantially the same as in these previously approved schemes and do not consider that any increase is significant to affect dark skies to the extent that a refusal is warranted.

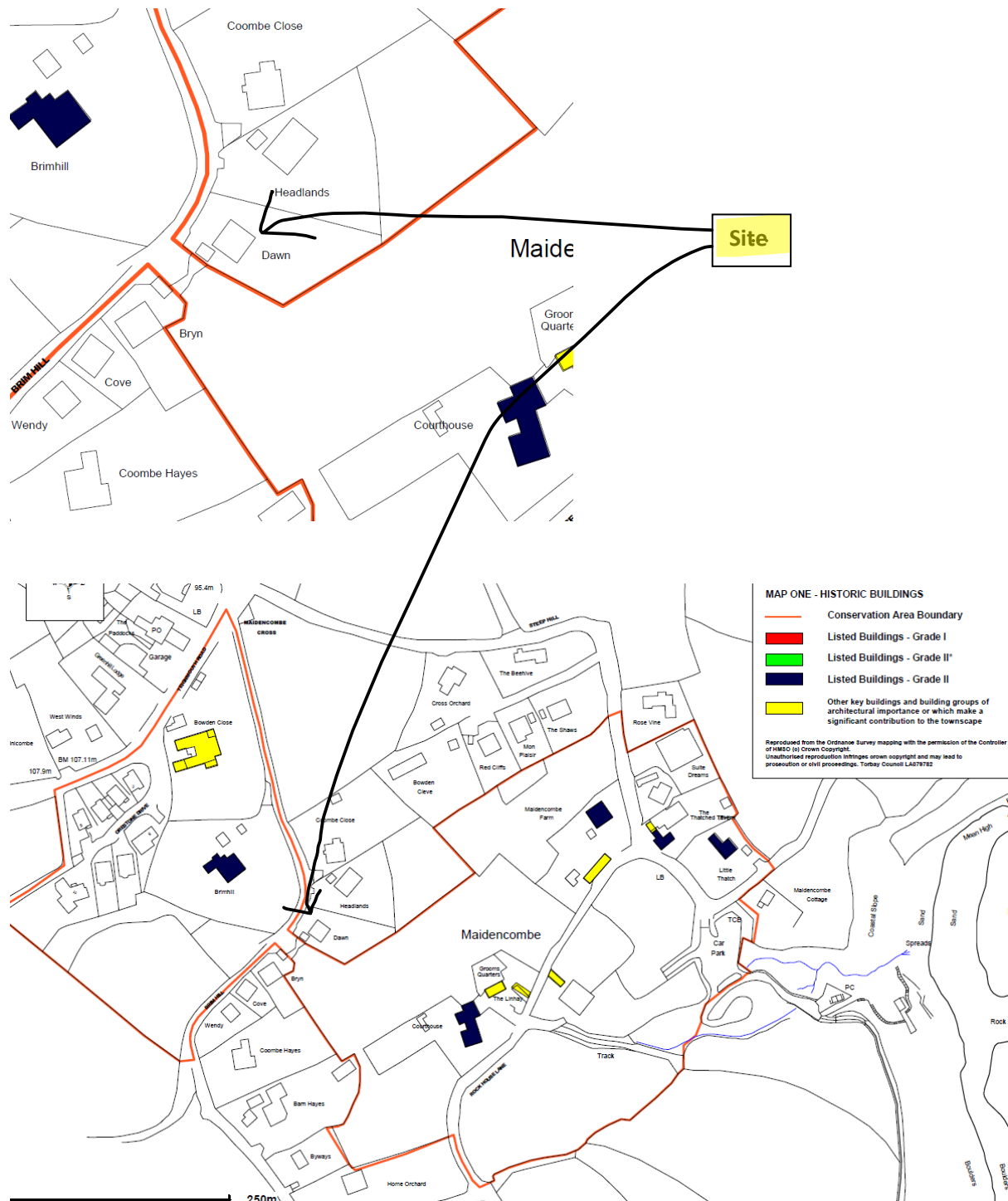
The proposals do not propose the removal of any trees/hedgerows. The Council has previously investigated complaints that trees/hedgerows have been removed at the site without authorisation. Torbay Council’s arboriculture officer visited the site in response to complaints made about unlawful felling in October 2020 and confirmed that Two Cypress trees and a single Ash tree had been removed from an area between the south of the property and the site boundary. The Council’s arboriculture officer was able to verify (by counting rings in the stumps) that these trees had been planted around 2000 and were not protected by the area wide Tree Preservation Order introduced to cover the site on 11/09/1986 (only trees planted before this date are protected). As such the Council is satisfied that no unauthorised felling has taken place.

Officers do not believe that the proposals materially affect the setting of any listed building. Grade II listed buildings are site to the north west (Brimhill) and south east (the Courthouse). There are three other listed buildings towards the centre of Maidencombe village. However these are all significant distances from the site. Brimhill is some 45m distant and is not visible from the site. The Court house sits at the bottom of the hill below the site but is some 90m distant. Officers therefore consider that the proposals do not affect the setting of listed buildings. The other listed buildings in Maidencombe village are not visible from the site.

The Maidencombe Conservation Area boundary skirts the site on three sides so as to exclude not only Dawn, but also neighbouring properties Headlands and Combe Close to the north east. To the south west neighbouring properties Bryn, Cove and Wendy are also fall outside of the conservation area boundary:



## Extracts from Maidencombe conservation area appraisal



Officers have considered whether the proposals would detract from the character of the conservation area but consider that they would not lead to unacceptable harm.

The proposals are therefore considered to be in accordance with Policies SS8, SS9 and SS10.

## 5. 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 stated that the proposals will reduce the carbon footprint of the house through the use of triple glazed sliding doors to reduce heat loss and carbon emissions, rather than the bifold doors as approved under P/2016/0471.

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.

## **Policies for managing change and development in Torbay**

### 6. Parking

Policy TA3 (Parking requirements) and Appendix F of the Local Plan states that residential dwellings should be served by two parking spaces and an additional space is required for each two additional bedrooms added by proposals. Policy TH9 of the Torquay neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

The proposals would add a fourth bedroom to the three existing bedrooms. No additional parking provision is therefore required. There is space for at least two parked cars at the site (including the garaged space)

The proposals are therefore considered to be in accordance with Policies TA3 and TH9.

### 7. Countryside, coast and greenspace

Policy C1 (Countryside and the rural economy) of the Local Plan states that “...*development in the open countryside away from existing settlements will be resisted where this would lead to the loss of open countryside or creation of urban sprawl ... development outside the main urban areas and Strategic Delivery Areas will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies, including those relating to landscape, recreation, biodiversity, design and conservation. Suitable in-fill development, refurbishments and conversions will be permitted within these settlements in order to meet the day-to-day needs of local communities ...*” Policy C2 (The coastal landscape) states that the Council will preserve the character of the undeveloped coast and that development in this area will only be permitted where it maintains the unspoilt character of the coastline and coastal landscape. Policy C4 (Trees, hedgerows and natural landscape features) of the Local Plan states that development will not be permitted where it would harm veteran or protected trees.

Objections have been made that the proposals are contrary to the Policies above. Reasons include that the proposals would not be of a modest scale, would not preserve the special character of Maidencombe and would create more light pollution. Also that they would have an adverse visual impact as well as “removal of trees and hedgerows”.

Officers have considered the proposals in relation to these policies and consider that they are of an appropriate modest scale relative to the Maidencombe village boundary. It should be noted in this respect that properties within the Maidencombe village boundary are characterised by being large and very large detached dwellings. It should also be noted that the proposals granted approval in 2016 (P/2016/0471) were approved in relation to policy C1 at that time. The Local Plan doesn't give any guidance as to what is to be understood by the term "appropriate modest scale" and so this is necessarily a matter of judgement. Officers consider that, given that proposals substantially the same as those currently proposed have been approved in relation to Policy C1 comparatively recently (2016) and given that Maidencombe village is characterised by large and very large detached dwellings, the current proposals are of an appropriate modest scale, would not be an overdevelopment as the plot is substantial nor would the scale be out of character with the area.

It should be noted in this respect that the existing footprint of the built elements of the current site i.e. the main dwelling and garage is approximately 162.9 sqm (main dwelling approx. 118.9 sqm + garage structure approx. 52.9 sqm) whereas the footprint of the built structure as proposed would be approximately 216.9 sqm (an addition of approx. 5sqm to the existing porch on the north east of the building, and an addition of approx..44 sqm to the south west side extension). It should also be noted that no changes to the footprint of "existing" decking is proposed (the existing decking has been removed on site) and that the local topography means that the majority of the proposed south west side extension is unlikely to be visible from Brim Hill, whereas the proposed porch extension to the north east is unlikely to be visible from Rock Lane below the site (it appears unlikely that this element would be visible from the public realm except from directly outside of the property. Similarly, it appears that the proposed increase in height to the roof ridge of the existing property would not be particularly noticeable except from directly outside the property on Brim Hill).

The site is within the mapped area of undeveloped coast in the Local Plan and is approximately 385m from the coastline and 340m from the South West coast path. Officers consider that given the distance of the site from the coastline and their relatively modest scale the proposals are unlikely to detract from the character of the coastline or coastal landscape such that a refusal is warranted. As mentioned above, the proposals do not propose the removal of any trees/hedgerows. The Council has previously investigated complaints that trees/hedgerows have been removed at the site without authorisation and has opted not to take enforcement action having concluded that no unauthorised felling has taken place.

The proposals are therefore considered to be in accordance with Policies C1, C2 and C4.

## **8. Nature conservation**

Policy NC1 (Biodiversity and geodiversity) of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 (Protected species habitats and biodiversity) of the Torquay Neighbourhood Plan state that the development of new homes, or a new commercial property or 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 upon any protected species or habitats.

Objections have been made that the preliminary ecological survey submitted with the application was deficient and out of date and that the proposals involve "hedgerow removal".

The applicant has since provided an updated preliminary ecological survey report dated 2021 together with previous reports carried out in 2016 and 2018 and 2020.

The ecology surveys identified an occasional summer non-breeding day roost for one single Common pipistrelle bat in 2016 only and also identified that the site is within a Landscape Connectivity Zone within the South Hams Special Area of Conservation for Greater Horseshoe bats. (No evidence of nesting birds was found). Report findings did not identify the use of the property by bats at any point after 2016. However, the classification and conservation significance of the roost remains the same as in 2016. Mitigation measures such as bat roost features are incorporated into the design of the new development.

In addition a European Protected Species Licence (EPSL) will need to be obtained from Natural England prior to the commencement of works to the roof – these works are applicable for the Bat Mitigation Class Licence (BMCL).

This means that the local planning authority must consider whether the proposal meets the three derogation tests of the Conservation of Habitats and Species Regulations 2017 (as amended), and accordingly whether Natural England are likely to grant an EPS license which would permit the proposal to lawfully proceed. Advice from Natural England is that a proportional approach is to be taken depending on the extent of likely impact. In addition officers have consulted an ecologist at Devon County Council who has advised that the third test is met: .

*“It is my opinion that the survey results and mitigation measures included in the report satisfy the third test of the Habitats Regulations. If upon consideration of the first two tests you consider them met (I would draw your attention to the low conservation status of this roost which can be taken into account with respect the IROPI test), then it is reasonable to conclude that Natural England would grant a EPS licence. If this is the case, then please apply the conditions below.*

**Consultee recommendation:**

*Condition: The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements stated in the Preliminary Ecological Assessment (Green Lane Ecology February 2021), the Bat Survey & Mitigation/Compensation Measures report (Green Lane Ecology, October 2020) and Bat Low Impact Licence Method Statement along with any variation required by Natural England under any license it may issue.*

*This should be a condition of any planning consent. The planning condition shall be discharged when the consultant ecologist confirms in writing to the Authority that the recommendations have been implemented”*

Officers’ consideration of the derogation tests are as follows:

**1. Imperative reason of overriding public interest –**

Benefits to the local economy would be gained through the employment of local companies and tradesmen to undertake the construction and renovation works. The building is also to be extended and renovated in accordance with the current specifications for energy efficiency, thus providing environmental benefits. The development will modernise and improve the condition of the dwelling securing its long-term use.

The proposed mitigation measures include building design to create favourable roosting potential for bats behind the South West facia and also include 2 specific bat roosting tubes.

This will improve the long-term roosting potential of the building to the benefit of bat conservation and as such is in the public interest.

## **2. There is no satisfactory alternative**

It would not be possible to provide the additional accommodation proposed in the roofspace without potential disturbance of the roost. To provide the additional accommodation elsewhere could increase the bulk of the building in ways that may increase visual impacts.

## **3. There will be no significant detrimental population impact (on the bats)**

As advised by Devon County Council Ecologist The mitigation measures set out in the Ecology report mitigate any significant detrimental population impact on bats

It is reasonable therefore to conclude that Natural England would grant an EPS licence.

In reaching this conclusion it is acknowledged that as advised by our ecological consultant the low conservation status of this roost can be taken into account with respect to the IROPI (derogation) test given that Natural England recommend a proportionate approach is taken .

In summary, officers consider that the submitted information is adequate and that the recommendations and measures set out within it represents a proportionate response to the issues identified. The planning condition recommended by Devon County Council Ecologist is included in the list of conditions at the end of this report.

As mentioned above, the proposals do not propose the removal of any trees/hedgerows. The Council has previously investigated complaints that trees/hedgerows have been removed at the site without authorisation and has concluded that no unauthorised felling has taken place.

The proposals are therefore considered to be in accordance with Policies NC1 and TE5.

## **9. Historic environment**

Policy HE1 (Listed buildings) states that development proposals should have special regard to the desirability of preserving any listed building and its setting. Policy TH10 (Protection of the historic built environment) of the Torquay Neighbourhood Plan states that alterations to listed buildings will be supported where they safeguard and enhance their historic qualities.

Objections have been made that the proposals are contrary to these policies as they would have adverse effect on the setting of Grade II listed buildings.

As noted above, officers do not believe that the proposals affect the setting of any listed building such that refusal is warranted. Grade II listed buildings are sited to the north west (Brimhill) and south east (the Courthouse). There are three other listed buildings towards the centre of Maidencombe village however these are all significant distances from the site. Brimhill is some 45m distant and is not visible from the site. The Court house sits at the bottom of the hill below the site but is some 90m distant.

Having regard to the modest scale of the development and the separation distances between the site and the Listed Buildings Officers consider that the proposals do not materially affect the setting of listed buildings. The other listed buildings towards the centre of Maidencombe village are not visible from the site.

The proposals are therefore considered to be in accordance with Policies HE1 and TH10.

This conclusion has been reached in relation to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

## **10. Design and development**

Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE3 (Development amenity) of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Policy DE4 (Building heights) of the Local Plan states that the height of new buildings should be appropriate to the location, historic character and the setting of development. Policy DE5 (Domestic extensions) of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy TH8 (established architecture) 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.

Objections have been made that the proposals are contrary to these policies – see summary above and objections on file for reasons. Reasons include that the proposals would create a very large building across four levels, with terraces at three levels (roof, upper ground floor and lower ground floor) out of character with the local area and neighbouring properties. Also that it would be over-dominant. Objections have also been made that the proposals would overlook neighbouring properties, be overbearing, and lead to light pollution. Also that a decision to grant planning permission would be inconsistent with the treatment of other proposed developments in the vicinity of the site and would create a precedent for further inappropriate development.

Objections have also been made about the veracity of the submitted plans and about the legitimacy of a proposed “fall back” scheme that the applicant has asserted could be built without planning permission under the provisions of the General Permitted Development Order 2015 (as amended).

### Submitted plans

Objections have been made about perceived inaccuracies between submitted plans, lack of detail of floor levels and a notation present on all plans which previously read “Do not scale from this drawing”. The applicant has confirmed that the submitted plans are to scale and has removed the notation above:

**“Scaling of plans.** *The submitted drawings are to scale, as indicated. The note on former documents stating ‘do not scale from this drawing’ is directed at contractors and is one generally applied to architects’ drawings which are not for construction purposes. However, I have removed this note from all drawings for the avoidance of doubt. We have no issue with disclosing heights or levels of the building”* (extract from applicant’s agent letter”).

It should be noted that there is no expectation or requirement for drawings to contain measurements since they are drawn to scale meaning that measurements can be taken independently.

Floor level details have been added.

Officers agree with comments made about an inaccurate existing ridge heights shown on a number of drawings which would indicate the building to be 10m taller than it is – this error is to be rectified. Clarification on the height of the proposed rear decking has also been sought but it appears to be some 400- 500mm higher than the old deck which was recently removed. With these exceptions officers are satisfied that the plans are accurate. Proposed section drawings supplied by the applicant also confirm that the proposed loft conversion and raised roof ridge would provide adequate internal floor to ceiling height.

#### Fall Back position

The applicant has provided details of a “fall back” scheme, incorporating side extensions, a rear extension a front porch and a rear outbuilding that he argues could be implemented as permitted development. Officers have not assessed whether or not this scheme would constitute permitted development, although it is clear that fairly significant works could be carried out under permitted development rights.

The proposed development is not permitted development however and should be assessed on its own merits

#### Visual appearance

Officers consider that the proposals are acceptable in relation to their visual appearance.

The proposals do not include four stories as referred to in some objections. At the front the proposals would maintain the appearance of a single storey bungalow. At the rear the proposals would remain two stories in height. The roof would be converted into a bedroom with a small inset balcony (similar in size to the rear dormer extension in the neighbouring property known as Bryn) but, asides from the addition of the proposed two storey side extension, the appearance of the rear elevation would otherwise remain largely unchanged. As noted above (Description of proposals) there is already a terrace across the full width of the main dwelling at upper ground floor level. The proposals would involve extending this across the proposed side extension and filling in the gap under the existing terrace with a 1.4m deep extension to the existing lower ground floor. As the ground slopes down steeply from the rear of the main dwelling the existing decking to be replaced is approximately 2m above ground level at the rear. In an earlier iteration of the plans the applicant intended to use the space under the decking as a store, however the plans have since been amended to remove this store and show the gap between the decking and the ground boarded up with vertical timber boards approximately 2m high.

As noted above the proposals are substantially the same as those granted planning permission in 2016 and 2018.

Officers consider that the proposals would be subservient to the main dwelling without detracting from the existing street scene. It should be noted in this respect that ground levels mean that the proposed single storey extension at the rear is unlikely to be visible from outside the front of the property and that the proposed two storey side extension is unlikely to feature prominently from the front of the building due to differences in levels. Officers

consider that the proposed rise in the roof ridgeline is acceptable and that the size of the plot means that the proposals would not represent overdevelopment.

#### Amenity

Officers have considered the issue of neighbour amenity and consider that the proposals would not be overbearing or lead to significant overlooking, overshadowing, loss of light or light pollution such that planning permission should be refused.

Openings in the side of the proposed side extension facing Bryn would be obscure glazed at first floor level. Officers consider that the distance from the site to Bryn, in the region of 24m, means that the proposals would not be unacceptably overbearing. The distance from the site to Headlands, in the region of 20m, is considered to be sufficiently distant such that no significant overlooking would occur in this direction either. Properties to the south east, at the bottom of the hill are considered to be sufficiently distant such that no amenity issues are likely to arise. It should be noted in this respect that officers have considered the objection made by the occupant of the property known as Home Orchard that the proposals would overlook their garden and swimming pool. However, as above, Dawn and Home Orchard are a significant distance apart and it should be remembered that Dawn already has an “existing” rear terrace at first floor level. Officers have considered the issue of light pollution. The property is already heavily glazed to the rear at upper and lower ground floor levels and officers consider that the proposed increase in glazing is unlikely to lead to any significant increase in light spillage from the property.

#### Precedent and other applications

Each application is considered on its merits and officers do not consider that an approval would set a precedent for any future development proposals. Officers do not consider that it is appropriate to compare previous decisions to refuse planning permission for proposals at nearby sites with the proposals under consideration.

Given the siting, scale, and design of the proposal it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality or neighbour amenity.

The proposal is therefore considered to be in accordance with Policies DE1, DE3, DE4, DE5 and TH8.

### **10. Environmental resources**

Policy ER1 (Flood risk) 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. Policy ER2 (Water management) of the Local Plan states that all development should seek to minimise the generation of increased run-off having regard to the drainage hierarchy. Policy ER4 (Ground stability) of the Local Plan states that appropriate investigations will need to be agreed with the Council where identified or suspected ground instability presents a risk to public health and safety, buildings, structures or the natural environment.

Objections have been made that the proposals would lead to increased surface water run off with the potential to affect foundations of properties further down the hill (specifically the Courthouse) and the operation of their septic tanks, also that there is potential for ground instability due to the steep sloping nature of the site.



### Flood risk and water management

After discussions with Torbay's Drainage engineer Officers understand that properties in Maidencombe in the vicinity of the site are not served by the Combined Sewer. As a result, while potable water is piped into these properties, foul water is not piped away and is instead stored in septic tanks before soaking away into the ground. Solids should be emptied periodically via tanker. It is assumed that surface water drainage (i.e. rain) for existing properties, including Dawn and neighbouring properties, is managed through soakaways provided when these properties were built but this cannot be verified due to the age of the properties concerned.

The site is not within the critical drainage area for Torbay. The applicant has submitted a flood risk assessment identifying that sustainable drainage systems will be used (i.e. soakaways). Officers have consulted Torbay Drainage department who have advised that a planning condition should be added requiring the technical detail of the proposed soakaway design to be approved in writing by the LPA before works re-commence. The design must demonstrate that flows discharging from the soakaway will not result in an increased risk of flooding to property and land downstream of the site due to the topography of the land (i.e. as the site is on a steep hill) and the risk of re-emergence of flows downstream. Officers have included the condition recommended by Torbay Drainage in the list of conditions at the end of this report.

It should be noted in this respect that the previous approval for the 2016 proposals (P/2016/0471) contained a similar condition<sup>1</sup>.

It is relevant to note that Dawn, and neighbouring properties already exist and are, it is assumed (based on discussions with Torbay Drainage department), all served by existing soakaways.

There is no evidence of ground instability presenting a risk to public health. Officers have consulted a Senior Structural Engineer at Torbay Development Agency who has examined Building Control records for the proposed development as constructed so far and advised that the proposals are acceptable in geotechnical terms such that a planning condition in relation not geotechnical is not needed.

It should again be noted in this respect that Dawn already exists, as do the other properties either side of it, and that the proposed side extension to the south west would be set back from the building line of the rear of the main dwelling.

The proposal is therefore considered to be in accordance with Policies ER1, ER2 and ER4.

---

<sup>1</sup> "Surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

## 11. Special protection for rural village environments

Policy TH11 (Rural village conservation areas) of the Torquay Neighbourhood Plan states that:

*“Within the Maidencombe and Cockington Village designated Conservation Areas, subject to other policies in this Plan, development proposals consisting of sensitive conversions, extensions and alterations will be supported where this would protect or enhance the character and setting of the designated Conservation Area and also have regard to the significance of existing open spaces in terms of their contribution to the Conservation Area”.*

Policy TH12 (Maidencombe area) of the Torquay Neighbourhood Plan states that:

*“Any proposal for development within Maidencombe Village Envelope must demonstrate that it respects local character and it conserves or enhances heritage and landscape assets where it might impact on those assets.*

*To achieve this, any development must be of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes.*

*Designs and construction materials must draw from and be in keeping with local features and design characteristics and be appropriate in relation to its landscape sensitivity.*

*Development must take into account the value of the rural landscape and comply with the Local Plan policies in the designated Countryside Area (C1) and Undeveloped Coast (C2).*

*Major developments in C1 countryside, outside the Village Envelope, will not be supported and any green-field development will be resisted unless it is compatible with the rural character and setting and it fits within the constraints of the existing landscape and visual character of the area”.*

Objections have been made that the proposals are contrary to these policies. Reasons include that the proposals would have an adverse impact on the Maidencombe Conservation Area, would be out of keeping with the local area (scale, height, footprint location, massing) and would not conserve or enhance heritage and landscape assets.

Policy TH11 applies to development “within the .. Conservation Area” only. The site is outside the boundary to the Conservation Area and so Policy TH11 is not relevant. Officers nevertheless consider that the proposals represent sensitive extensions.

Policy TH12 refers to the need for proposals to conserve or enhance heritage and landscape assets where they might impact on those assets. In this case officers do not consider that the proposals impact on heritage/landscape assets and nevertheless consider that the proposals are “*of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes*”.

It should be noted in this respect that whilst the Maidencombe village includes 5 Grade II listed buildings the vast majority of buildings carry no heritage designation and are comparatively modern in character. This can clearly be seen by comparing the following map extracts from 1904 and 1933 taken from the Maidencombe Conservation Area Appraisal (obviously the 1933 extract does not show housing built after this date). It can be seen from this that the vast majority of housing in the vicinity of the site (including the site itself and properties that objections have been registered from i.e. Bryn, Wendy and Home Orchard) were all built comparatively recently. (As were the properties known as Oakdene and Wekiva, further away from the site and properties neighbouring them):



Site

As set out above under “Design and development”, officers do not consider that the proposals would detract significantly from neighbour amenity. The proposal would make use of local limestone from Stoneycombe quarry. Officers consider that the proposals accord with policies C1 and C2.

The proposal is therefore considered to be in accordance with Policies TH11 (as officers do not consider that policy TH11 is relevant) and TH12.

### **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 key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development and it is in accordance with the Development Plan, including the Torquay Neighbourhood Plan.

It is noted that many of the objections refer to the proposal being contrary to a number of Development Plan policies. Many of these policy assessments require subjective interpretation however. Following a detailed assessment of the scheme Officer opinion is that the proposal does not conflict with the development plan

As such it is concluded that the planning balance is in favour of supporting this proposal.

### **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. 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. The extensions hereby approved shall be constructed in accordance with the Materials Schedule drawing 586-M1 dated 20/04/16 and the Stone facing wall specification drawing 586-M2 dated 23/07/18. The natural stone walls shall be constructed from stone laid on its natural bed in a sand/lime mortar. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policy DE1 and SS10 of the Torbay Local Plan 2012-2030.

2. The two upper ground floor windows (utility and W/C) on the south west facing side elevation facing Bryn, Brim Hill, and the south west facing lower ground floor en-suite window also facing Bryn, Brim Hill shall be fitted with obscure glazing to a level at least equivalent to Pilkington Level 3 and fixed shut or fitted with a 100 mm opening restrictor. The windows shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; in accordance with the requirements of policies DE1, DE3 and DE5 of the Torbay Local Plan 2012 - 2030.

3. The upper ground floor windows (bathroom) in the side extension on the south east side of the building facing south east towards Headlands, Brim Hill and north east shall be fitted with obscure glazing to a level at least equivalent to Pilkington Level 3 and fixed shut or fitted with a 100 mm opening restrictor. The windows shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; in accordance with the requirements of policies DE1, DE3 and DE5 of the Torbay Local Plan 2012 - 2030.

4. Before the first use of the upper ground floor terrace hereby permitted the obscure glazed privacy screen shown on the approved plans in the south west elevation facing Bryn, Brim Hill shall be installed to a height of 1.7m to at least the equivalent of Pilkington Level 3. The privacy screen shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; and in accordance with the requirements of policies DE1, DE3 and DE5 of the Torbay Local Plan 2012-2030.

5. Notwithstanding the details submitted in the Flood Risk Assessment surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change. Technical details of the soakaway design shall be submitted to and approved in writing by the local planning authority prior to commencement or continuation of any further development. Due to the topography of the land and the risk of re-emergence of

flows downstream, the soakaway design must also demonstrate that flows discharging from the soakaway will not result in an increased risk of flooding to property and land downstream of the proposed development”.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement or continuation of any further development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. The submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 40% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 40% allowance for climate change" conditions.

The new areas of development shall not be brought into use until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030. These details are required pre-commencement to ensure that a surface water drainage system is designed appropriately to appropriately manage flood risk *having regard to the topography of the site*.

5. No destructive works are to be carried out to the roof between 1<sup>st</sup> June and 31<sup>st</sup> August of any year.

Reason: For the protection of legally protected bats and in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the advice contained within the NPPF. The development hereby permitted shall be implemented strictly in accordance with the recommendations and requirements stated in the Preliminary Ecological Assessment (Green Lane Ecology February 2021), the Bat Survey & Mitigation/Compensation Measures report (Green Lane Ecology, October 2020) and Bat Low Impact Licence Method Statement along with any variation required by Natural England under any license it may issue. **The applicant's consultant ecologist shall confirm in writing to the Authority that these recommendations have been implemented**

Reason: For the protection of legally protected bats and in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the advice contained within the NPPF.

6. Prior to the first occupation of the development hereby approved, in-line with the recommendations of the approved Bat Activity/Emergence Survey Mitigation & Compensation report dated July 2016, the bat roosting opportunities shown on the ecology mitigation plan reference: 589-EC1(B) will be provided. These enhancements shall include:

- 15-20mm gaps will be created between the fascia board and the external wall with a south westerly aspect. An internal wall will prevent bats from entering the roof void whilst allowing them access to the top of the wall. It is imperative that bats are prevented from coming in to contact with modern breathable roof membrane which becomes lethal to them over time as they become entangled in its fibres.
- Two voids with access gaps into wall cavities will be incorporated into a south facing and north easterly facing wall.
- Two Schwegler 1FR bat tubes will be incorporated into the walls in two locations, one to face south and west.
- Two gaps in the stone work to allow crevice dwelling bats to inhabit the stone wall.

The approved enhancements shall thereafter be retained for the life of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason: To secure enhancements for legally protected bats in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the advice contained within the NPPF.

7. External lighting shall be installed in strict accordance with the approved lighting plan (plan reference: 589-05B dated 16/10/20) and lighting specification (drawing 589/M3, dated 23/07/18). No additional external lighting shall be installed on, or in association with, the building except for low-intensity, PIR motion-activated lights on a short timer (maximum 1 minute), sensitive to large objects only (to avoid triggering by bats or other wildlife). Any lights should be mounted at a height no greater than 1.9m from ground level, directed/cowled downward and away from the site hedges and trees. The lights should produce only narrow spectrum, low intensity light output, UV-free, with a warm colour-temperature (2,700K or less) and a wavelength of 550nm or more.

Reason: For the protection of legally protected bats and in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the advice contained within the NPPF.

### **Development Plan Relevant Policies**

SS1 Growth Strategy for a prosperous Torbay  
 SS3 Presumption in favour of sustainable development  
 SS8 Natural Environment  
 SS9 Green infrastructure  
 SS10 Conservation and the historic environment  
 TA3 Parking requirements  
 C1 Countryside and the rural economy  
 C2 The coastal landscape  
 C4 Trees, hedgerows and natural landscape features  
 NC1 Biodiversity and geodiversity  
 HE1 Listed buildings  
 DE1 Design  
 DE3 Development amenity  
 DE4 Building heights  
 DE5 Domestic extensions  
 ER1 Flood risk  
 ER2 Water management  
 ER4 Ground stability

TS1 Sustainable development  
TH8 Established architecture  
TH9 Parking facilities  
TH10 Protection of the historic built environment  
TH11 Rural village conservation area  
TH12 Maidencombe area  
TE5 protected species and habitats