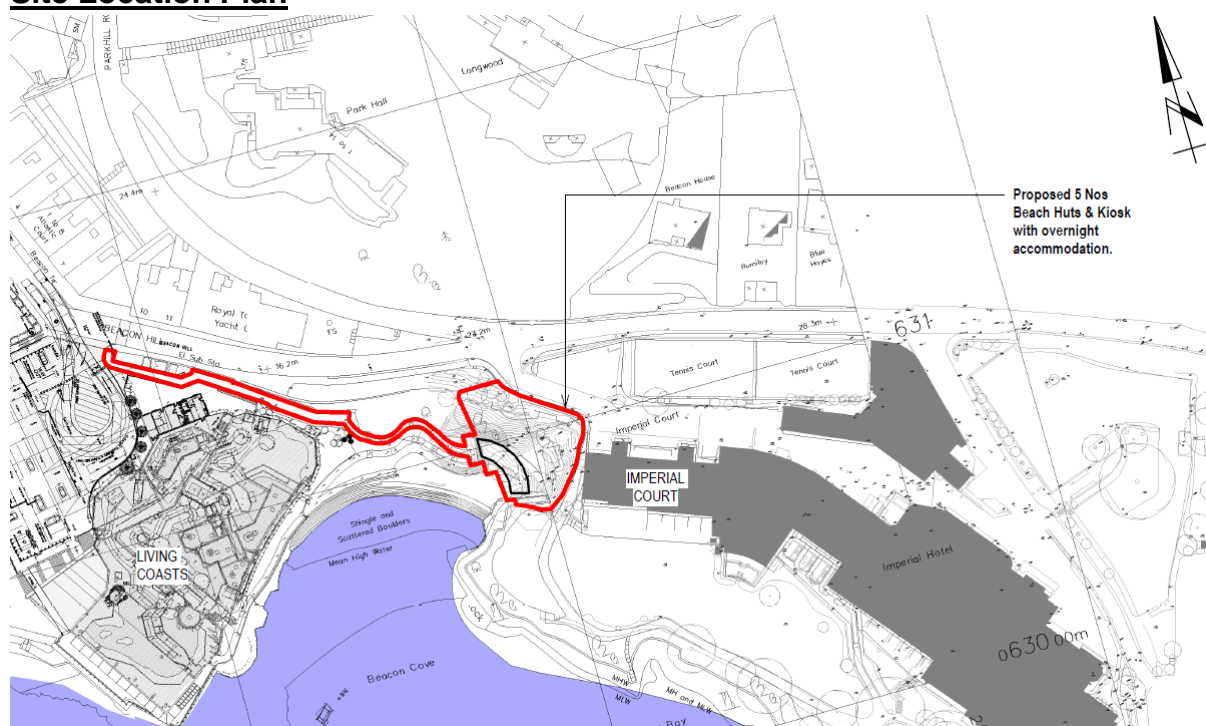


TORBAY COUNCIL

Application Site Address	Beacon Cove Parkhill Road Torquay TQ1 2EP
Proposal	Formation of five tourist accommodation beach huts & kiosk. (As revised by plans received 15 June 2021 showing revised foul drainage strategy).
Application Number	P/2019/1023
Applicant	Hemel Hempstead Property Co (Apsley) Ltd
Agent	Kay Elliott Architects
Date Application Valid	28.11.2019
Decision Due date	23.01.2020
Extension of Time Date	
Recommendation	<p>Approval: Subject to;</p> <ol style="list-style-type: none"> 1. Written confirmation from Natural England that they accept the conclusions of the Habitats Regulations Assessment and the Marine Conservation Zone Assessment, and; 2. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency, and; 3. The completion of a S106 Legal Agreement to secure heads of terms as outlined below, delegated to the Assistant Director of Planning, Housing and Climate Emergency, and that; <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Due to the number of objections received, and in accordance with the Council's constitution which requires that, for applications relating to land owned by Torbay Council and against which objections have been received, the application be referred to the Planning Committee for decision making.
Planning Case Officer	Craig Davies

Site Location Plan



Site Details

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

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

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

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

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

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

Date of officer site visits: 11.12.2019, 22.12.2020 and 22.07.2021.

Description of Development

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

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

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

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

While the proposal that was advertised to the public included a proposed wastewater treatment unit located in the void beneath the terrace with treated foul water to be discharged into the sea, the proposal has since been revised. The wastewater treatment unit that was initially proposed has been omitted, and the revised foul drainage strategy is for foul drainage to be pumped (using a pump located in the void beneath the terrace) up to the public sewer on Beacon Hill road through pipes located within the reinstated footpath to the rear of the proposed building.

It is important to note that a very similar proposal (identical aside from the foul drainage strategy) was approved for this site by the Planning Committee in 2016. The approved scheme was not implemented and the approval has since lapsed. Prior to that, a very similar proposal was also approved in 2013 but was not implemented.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

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

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

Other relevant planning decisions:

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

Summary of Representations

In addition to the objection from the Torquay Neighbourhood Plan Forum which is described in the section below on consultation responses, approximately 88 objections were received in which the following matters were raised:

- Potential privatisation of a public beach / loss of public open space.
- Sets a precedent encouraging more development in the area.
- Lack of need for the proposed kiosk and holiday accommodation due to the presence of existing facilities in the area.
 - o (It is relevant to note that protection from trade competition is not a material planning consideration.)
- Adverse impact on landscape character and the sense of openness.
- Adverse impact on the character of the Torquay Harbour Conservation Area.
- Other brownfield sites in Torbay should rather be prioritised for tourism development.
- Contrary to policies within the Torquay Neighbourhood Plan.
 - o Greenfield development on an unallocated site.
- Adverse impact on the Marine Conservation Zone and seagrass beds due to:
 - o Run-off of dust and pollution during construction works.
 - o Increase in boats anchoring at Beacon Cove.
 - o Litter from increased visitors to the site.
 - o Noise pollution.
- The importance of sea grass in:
 - o Providing a habitat and/or breeding ground for protected and endangered species (including seahorses) and commercial fish species.
 - o Absorbing carbon.
 - o Stabilising sediments on the sea floor.
 - o Reducing coastal flood risk.
- Torbay Council has declared a climate emergency.
- The proposal to discharge treated wastewater into the sea would have an adverse ecological impact.
 - o (It is important to note that the wastewater treatment unit that was originally proposed has been omitted and the applicant has submitted a revised

proposal for foul drainage to be pumped to the mains sewer at Beacon Hill road.)

- Lack of detailed plans regarding the revised proposal to pump foul drainage up to the mains sewer.
 - o (It should be noted that since this objection, the applicant has submitted a detailed foul drainage strategy to which South West Water has indicated no objection.)
- The proposal should be subject to more detailed ecological assessment.
 - o (It should be noted that since this objection, the application has been subject to further consultation with Natural England with the applicant having submitted a shadow Habitats Regulations Assessment and Marine Conservation Zone Assessment, as described in more detail later in this report.)
- Consultation with relevant stakeholders (Natural England, MMO, Torquay Neighbourhood Plan Forum) has been inadequate.
 - o (It should be noted that since this objection, further consultation has been carried out with Natural England and the Environment Agency, as described in more detail in the section below on consultation responses.)
- Adverse impact on birds nesting in the surrounding cliffs.
- Inadequate consideration of policies in the South Marine Plan.
- Contrary to Paragraphs 170 and 175 of the NPPF which relate to harm to biodiversity. (Paragraphs 174 and 180 in the July 2021 version of the NPPF.)
- Adverse impact on the stability of the cliffside.
- Adverse impact on a site that is widely used for diving, swimming, and watersports.
- Adverse impact on the GeoPark.
- The proposal development would be at risk from climate change, wave action and coastal erosion.
- Poor development amenity / lack of access to sunlight due to overshadowing from cliffs and trees.
- Potential impact on the approved shipping container which is used for the storage of water sports equipment.
- Disturbance for residents of Imperial Court due to noises and smells rising up the hillside.
- Proposals for waste collection are inadequate.
- Parking and access arrangements are inadequate.
- Potential for congestion/obstruction at the vehicular access to Imperial Court.
- Adverse impact on highway safety.
- Removal of vegetation and felling of trees.
- The proposal to reinstate the footpath up to Beacon Hill is impractical.
- Problems with anti-social behaviour at the site, and the proposal's compatibility with existing security measures.
- Previous planning approvals for the site were granted:
 - o Prior to the adoption of the Torquay Neighbourhood Plan.

- Without adequate consideration of ecological impact.
- At a time when understanding of the importance of ecology and biodiversity was less widespread.

Summary of Consultation Responses

Torquay Neighbourhood Plan Forum:

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

- The lack of consultation with the Community Partnership is contrary to the Neighbourhood Plan policy on community led planning.
- The proposal is contrary to the Neighbourhood Plan policy on designing out crime. Beacon Cove has been subject to improvements by the Community partnership to address anti-social behaviour.
- The proposal would constitute overdevelopment of a site that currently has no permanent structures, contrary to the Neighbourhood Plan policy on established architecture.
- The proposal would have a significant impact on the openness of the area.
- The proposal is for tourism accommodation on a greenfield site, contrary to the Neighbourhood Plan policy on tourism accommodation on brownfield sites.
- The application does not appear to have met the Neighbourhood Plan policy requirements relating to the assessment and mitigation of impacts on protected species, habitats, and biodiversity.
- The application does not appear to have met the requirements in terms of the Neighbourhood Plan policy on marine management planning.

Natural England:

Natural England provided an initial consultation response indicating that they had no comments to make with respect to the application. The initial consultation response also brought attention to Natural England's Standing Advice relating to protected species and recommended that the proposal's potential impacts on the South West Coastal Path National Trail should be considered including any appropriate mitigation measures.

After further discussions between the Local Planning Authority and Natural England, Natural England rescinded their previous consultation response and issued a further consultation response which confirmed that the proposal necessitated a Marine Conservation Zone (MCZ) Assessment to assess the proposal's impact on the Torbay Marine Conservation Zone, and a Habitats Regulations Assessment to assess the proposal's impact on the Lyme Bay and Torbay Special Area of Conservation.

The reasons given for why a MCZ Assessment was required included:

- Increased recreational use of the intertidal zone including pedestrian use, rockpooling and recreational fishing, with potential impacts on listed features within the MCZ.
- Increased recreational use by users of watercraft (eg paddleboards, small vessels, PWC and kayaks) with potential impacts on subtidal features (including seagrass beds and subtidal coarse sediment) due to anchoring, embarkation and disembarkation.
- Increased likelihood of polluting activities and littering due to more people using Beacon Cove.
- Potential impacts on sea grass beds and Long snouted seahorse.

The reason given for why an HRA was required was also that of potential impacts from increased recreational use, including increased use of watercraft and anchoring which could adversely impact features of the Lyme Bay and Torbay Special Area of Conservation including circalittoral rock, infralittoral rock, and subtidal stony reef.

Natural England recommended management responses including providing educational signage, marking off the most sensitive habitat areas, and restricting anchoring.

The consultation response also advised that the Environment Agency be consulted with respect to the wastewater treatment unit that was initially proposed due to concerns about impact on water quality, however this element of the proposal has since been omitted and replaced with a revised proposal for a foul drainage connection to the mains sewer.

Following the applicant's submission of a shadow HRA and MCZ Assessment as requested, a meeting was held between the Local Planning Authority, Natural England, and the applicant's agent in which Natural England provided verbal confirmation that they agree with the mitigation measures proposed within the shadow HRA and MCZ Assessment (which include the provision of educational signage at Beacon Cove and extending the voluntary no-anchoring zone to cover the entirety of Beacon Cove with no-anchor marker buoys between May and September), subject to educational material also being provided through online media such as websites and/or social media channels belonging to the operators of the proposed development.

Natural England's final written response to the HRA and MCZ Assessment is pending and a verbal update will be provided at Planning Committee.

Environment Agency:

The Environment Agency provided an initial consultation response (dated 23 July 2020) stating that "The site falls outside any constraints. I can confirm that we do not have any comment regarding this proposal." The consultation response also brought attention to the Environment Agency's Flood Risk Standing Advice.

In subsequent correspondence with the Local Planning Authority (dated 24 February 2021), the Environment Agency stated that they are “a statutory consultee for major proposals (i.e. developments of 10 or more dwellings) which propose the use of non-mains foul drainage systems. This application is for holiday lets so falls outside of our remit to comment.” The Environment Agency also provided a guidance document for proposals for non-mains drainage. While this guidance document was applicable to the wastewater treatment unit that was initially proposed, this element of the proposal has since been omitted and replaced with a revised proposal for a foul drainage connection to the mains sewer.

Marine Management Organisation:

The consultation response did not raise any specific comments in relation to the proposal itself, but drew attention to the following general matters:

- Works/activities taking place below the mean high water mark may require a marine licence in accordance with the Marine and Coastal Access Act (MCAA) 2009.
 - o (In this regard it is noted that the proposed works are sited above the high water mark).
- A wildlife licence is required for activities that would affect a UK or European protected marine species.
- Public authorities must make decisions in accordance with Marine Plan policies. A Marine Plan applies up to the mean high water springs mark.

Drainage:

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

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

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

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

South West Water: “No objection subject to the foul water being managed in accordance with the submitted foul drainage strategy.”

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

Strategic Transportation:

The consultation response raised the following matters:

- The need for safe and suitable access that does not rely on third party land.
- Cycle storage details for guests and staff should be provided.
- S106 planning contributions should be sought to support sustainable modes of travel including the provision of an electric vehicle charging facility for Beacon Hill Car Park.
- The need for a condition requiring a Car Parking Management Plan (for staff, guests, and any relevant waste collection vehicles) prior to commencement.
- Provisions for the collection of waste (recycling, solid waste, and any waste from the proposed waste water treatment plan) are required. A Waste Management Plan should be secured by condition.

Community Safety:

The Council’s Senior Environmental Health Officer indicated no objection to the proposal. While the consultation response did raise some concerns with respect to the original proposal for a wastewater treatment unit with treated discharge into the sea (with potential for adverse impact on water quality for bathers), this element of the proposal has since been omitted and replaced with a foul drainage connection to the mains sewer.

Arboriculture:

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

Food & Safety:

The consultation response raised the following matters:

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

- The need for a café pavement licence if there would be any tables and chairs on the public highway.
- The need for a licence if the kiosk would serve hot food or drink between the hours of 11pm and 5am.

Waste:

The consultation response raised the following matters:

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

Devon & Cornwall Police:

The consultation response indicated that the police have no comment to make, but also went on to indicate their availability to comment on police preferred standards and specifications for physical security elements of the proposal.

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

English Riviera UNESCO Global Geopark:

The consultation response noted that while Beacon Cove does not fall within a designated Site of Special Scientific Interest or a Regionally Important Geological Site, the cove hosts a distinct type of Marine Devonian coral fossil which is not found elsewhere within the Geopark area. The consultation response stated that there has been no recent or historical detailed geological survey of Beacon Cove and recommended that a survey be commissioned to assess the full geological value of the cove.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Impact on Amenity
4. Impact on Highways
5. Impact on Flood Risk and Drainage

6. Impact on Ecology
7. Impact on Arboriculture
8. Low Carbon Development

1. Principle of Development

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

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

It is important to note, however, that the site is not designated as Undeveloped Coast or as Countryside Area in terms of the Local Plan, nor is it designated as a Local Green Space in terms of the Neighbourhood Plan. Moreover, the site is designated as part of Torquay Town Centre, part of the Torquay Town Centre and Harbour Strategic Delivery Area, and part of the Core Tourism Investment Area. The applicant's submission includes details of the history of Beacon Cove from which it is evident that Beacon Cove has accommodated various forms of development in the past, including buildings with a broadly similar siting as the current proposal. Given the previous approvals at this site, the site's designations in the Local Plan and Neighbourhood Plan, and historical development at Beacon Cove, it is considered that the proposal does not present significant conflict with Policies TS4 or TE1 of the Neighbourhood Plan.

Furthermore, insofar as the site may be considered a greenfield site, it is worth noting that the proposal does make a contribution towards meeting the objectives of strategic

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

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

Given the site's coastal location adjacent to the edge of the Coastal Change Management Area, the proposal has been considered in terms of Policy C3 of the Local Plan and Policy TE7 (Marine Management Planning) of the Neighbourhood Plan. Policy C3 of the Local Plan states that development within the Coastal Change Management Area, or reliant upon services within it, will be considered in terms of the South Devon and Dorset Shoreline Management Plan. The Shoreline Management Plan indicates this area as a site of 'No Active Intervention'. It is noteworthy that the proposed development would be sited outside of the Coastal Change Management

Area and at a level that would be a considerable height above the peak high tide level, with the proposed building being sited above a large retaining wall. A prior to commencement condition is proposed that would require the submission of a geotechnical survey conducted by a registered professional and setting out any necessary mitigation measures to be carried out by the developer. Policy TE7 (Marine Management Planning) of the Neighbourhood Plan states that development proposals on land adjacent to the coastline will be supported where they do not have an adverse effect on a marine policy or management plan. The proposal has been assessed in terms of the South Marine Plan which applies to the area of coast and sea between Folkestone in Kent to the River Dart from the mean high water spring tide to 12 nautical miles out to sea, and from 12 nautical miles out to the maritime borders with France and the Channel Islands. Given that the proposed development would be sited above the mean high water spring tide, the proposal would not have any direct impact on the South Marine Plan area. The Marine Management Organisation has been consulted as part of the assessment of the application; the consultation response does not raise any specific comments with respect to the application and confirms that Marine Plans apply up to the mean high water springs mark. It is considered that the principle of development in this location does not present any conflict with the South Marine Plan. Subject to the said condition requiring a geotechnical survey, the proposal is considered to be in accordance with Policy C3 of the Local Plan and Policy TE7 of the Neighbourhood Plan.

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

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

2. Design and Visual Impact

Paragraph 126 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. Paragraph 134 of the NPPF states that 'development that is not well designed should be refused' and conversely that 'significant weight should be given to development which reflects local design policies and government guidance on design'. Paragraph 197 of the NPPF states that, in determining applications, local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that the conservation of heritage assets can make to

communities, and the desirability of new development making a positive contribution to local character and distinctiveness.

Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas and listed buildings, whilst allowing sympathetic development. Policy HE1 of the Local Plan states that development proposal should have special regard to the desirability of preserving any listed building and its setting.

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

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

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

Through the use of a condition requiring the submission of a Crime Prevention Plan, it is considered that appropriate physical security measures (including, for example, secure boundary treatment with gates, contextually appropriate security lighting, and CCTV) can be secured in a manner that would be compatible with the measures that have already been put in place by the Torquay Town Centre Community Partnership. Finally, it is reiterated that the application has been circulated to Devon and Cornwall Police who indicated that they have no comments with respect to the proposal, but that they are available to give input on physical security measures. The proposed Crime Prevention Plan condition would allow for Devon and Cornwall Police to be consulted as part of the discharge of conditions process. It is considered that the proposal would make a positive contribution towards combating crime and anti-social behaviour at Beacon Cove.

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

3. Impact on Amenity

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

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

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

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

4. Impact on Highways

Policy TA2 of the Local Plan states that all development proposals should make appropriate provisions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan states that all development proposals should make appropriate provisions for car,

commercial vehicle, and cycle parking spaces, as well as bin storage. Policy THW5 of the Neighbourhood Plan states that, in the interests of encouraging the use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate.

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

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

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

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

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

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

5. Impact on Flood Risk and Drainage

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

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

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

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

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

Whereas the initial foul drainage strategy was for a wastewater treatment unit with treated discharge into the sea, the applicant has since omitted this element of the original proposal and has submitted a revised foul drainage strategy comprising wastewater being pumped up to the mains sewer at Beacon Hill road to the north. The detailed foul drainage strategy provided by the applicant indicates that the pump would be provided in the void area beneath the terrace on the southwestern side of the proposed building, with a pipe being routed within the proposed reinstated footpath to the rear of the proposed building up to a new mains sewer connection. South West Water have indicated no objection to the revised foul drainage strategy.

Subject to conditions to secure the foul and surface water drainage strategies and flood mitigation measures, the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

6. Impact on Ecology

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

includes guidance towards minimising impacts on, and providing net gains for, biodiversity (Paragraph 174).

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

Relevant ecology related policies within the South Inshore and South Offshore Marine Plan, 2018 are as follows:

- S-BIO-4: Proposals must demonstrate that they will avoid reducing the distribution and net extent of priority habitats.
- S-MPA-1: Proposals that support the objectives of marine protected areas and the ecological coherence of the marine protected area network will be supported. Proposals that may have adverse impacts on the objectives of marine protected areas and the ecological coherence of the marine protected area network must demonstrate that they will, in order of preference: a) avoid b) minimise c) mitigate adverse impacts, with due regard given to statutory advice on ecologically coherent network.
- S-CC-4: Proposals that may have a significant adverse impact on habitats that provide a flood defence or carbon sequestration ecosystem service must demonstrate that they will, in order or preference: a) avoid b) minimise c) mitigate significant adverse impacts.
- S-WQ-1: Proposals that may have significant adverse impacts upon water environment, including upon habitats and species that can be of benefit to water quality must demonstrate that they will, in order or preference: a) avoid b) minimise c) mitigate significant adverse impacts.

The original submission was accompanied by an Ecological Assessment Report ('the ecology report') and a Construction Environmental Management Plan ('the CEMP') provided by the applicant's ecological consultant. In response to the consultation response provided by Natural England, the applicant has since also submitted a Shadow Habitats Regulations Assessment and Marine Conservation Zone Assessment (the 'shadow HRA/MCZ Assessment') provided by the applicant's ecological consultant.

The site is located close to the Lyme Bay and Torbay Special Area of Conservation and the Torbay Marine Conservation Zone which are to the south.

The ecology report and CEMP submitted by the applicant's ecologist recommended the following mitigation measures:

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

The Shadow HRA/MCZ Assessment submitted by the applicant's ecologist recommended the following mitigation measures:

- The provision of information boards on site with visual and written descriptions of the value of Beacon Cove for wildlife and the activities which can cause damage including littering and pollution, climbing over rock habitat, and the use of specific types of watercraft.
- Extending the voluntary no-anchoring zone associated with the seagrass bed to include the entirety of Beacon Cove, with the use of no-anchor marker buoys between May and September to protect marine habitats and to allow for the potential future growth of seagrass.

In a meeting between the Local Planning Authority, Natural England, and the applicant's agent, Natural England provided verbal confirmation that they agree with the mitigation measures proposed within the shadow HRA and MCZ Assessment, but requested that in addition to physical signage on site, educational material also be provided through online media such as websites and/or social media channels belonging to the operators of the proposed development.

In order to secure the provision of a suitable information board on site as part of the development, a condition is included requiring that prior to occupation of the development, an information board with suitable educational material regarding the

ecological context of the site and activities which can cause damage must be provided in accordance with details (relating to the size, siting, written and visual content, and appearance of the information board) which shall have been agreed in writing by the Local Planning Authority. While it is noted that the Shadow HRA/MCZ Assessment proposes that two information boards be provided (one at the top of the proposed reinstated footpath to the rear and one adjacent to the beach), it is considered that a single information board provided close to the hatch opening of the proposed kiosk would be more suitable. The reason for this is that the access ramp that leads from the Beacon Quay car park to the west already hosts signage with educational material regarding the ecological context.

In order to ensure the provision of suitable educational material regarding the ecological context through online media as requested by Natural England, a condition is included requiring that online advertising material pertaining to the operation of the proposed development must include information regarding the ecological context of the site in accordance with details which shall have been agreed in writing by the Local Planning Authority. In order to ensure that this condition is complied with, a s106 monitoring contribution is proposed.

In order to secure the extension of the voluntary no-anchoring zone to cover the entirety of Beacon Cove, a s106 contribution is proposed to fund the placing of up to two additional no-anchor marker buoys in the sea. Given that the placing of additional no-anchoring marker buoys in the sea is expected to require a marine license from the Marine Management Organisation, a condition is included stating that no development may occur until written agreement has been provided from all necessary third parties (including the Tor Bay Harbour Authority and the Marine Management Organisation) regarding the number, position, means of fixing to the sea bed, and the detailed specification of additional marker buoys to be placed in the sea.

A condition is included requiring that the development proceed fully in accordance with the recommendations set out in the submitted ecology report and CEMP, with particular regard to measures for the control of dust and pollution during construction works and to the recommended biodiversity enhancement features.

It is noted that the consultation response from the English Riviera UNESCO Global Geopark draws attention to the presence of coral fossils at a particular point on the beach at Beacon Cove and recommends that a detailed geological survey of the entirety of Beacon Cove be required by condition. Given the notable distance between the position of the coral fossils and the footprint of the proposed building, and with due regard to the fact that Beacon Cove is already a publicly accessible area, it is considered that a condition requiring a geological survey of the entirety of Beacon Cove would be disproportionate and would fail to meet the requirements set out in Paragraph 56 of the NPPF which states that planning conditions should only be imposed 'where they are necessary, relevant to planning and to the development to

be permitted, enforceable, precise and reasonable in all other respects'. That being said, it is considered proportionate to impose a condition requiring a geological survey of the land within the application site (excluding the existing access ramp that leads from Beacon Quay car park to the west) for the presence of fossils prior to commencement.

Subject to the said conditions and s106 contributions, and subject to final written from Natural England that they accept the conclusions of the HRA and MCZ Assessment, the application is considered to be in accordance with Policy NC1 of the Local Plan, Policy TE5 of the Neighbourhood Plan, the South Marine Plan and the guidance contained in the NPPF.

7. Impact on Arboriculture

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

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

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

8. Low Carbon Development

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

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

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

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

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

Sustainability

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

The Economic Role

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

The Social Role

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

The Environmental Role

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

Sustainability Conclusion

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

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

Section 106:

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

Monitoring Contribution for Holiday Use:

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

Sustainable Transport:

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

Voluntary No-Anchoring Zone:

A sum of £5,000 to be used by the Council towards managing the voluntary no-anchoring zone associated with the sea grass beds within the Marine Conservation Zone close to the application site. This sum shall cover the installation and maintenance of up to two additional marker buoys to be placed in the sea near to Beacon Cove to increase awareness amongst operators of watercraft of the voluntary

no-anchoring zone that exists in this area to avoid harm to sea grass beds. This is necessary in order to mitigate the increased recreational use of the Marine Conservation Zone and Beacon Cove as a result of the proposed development.

Monitoring Contribution for Online Advertising:

A sum of £1000 to be used by the Council towards monitoring compliance with the planning condition requiring that online advertising material pertaining to the operation of the proposed development must include suitable educational material regarding the ecological context of the site.

CIL: Not applicable.

EIA/HRA

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

HRA: Not applicable.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme would contribute to addressing the Development Plan aspirations relating to investment into tourism and employment in Torquay's town centre and harbour area, would provide a well-designed, contemporary beach hut style development that would enhance the character of Beacon Cove and the Torquay Harbour Conservation Area, and would provide passive surveillance and security improvements that would help address concerns with respect to anti-social behaviour at Beacon Cove. Subject to the planning conditions detailed below and the Section 106 contributions detailed above, the proposal is considered to be generally in accordance with the Development Plan.

Conclusions and Reasons for Decision

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

Officer Recommendation

That planning permission be granted, subject to:

Written confirmation from Natural England that they accept the conclusions of the Habitats Regulations Assessment and the Marine Conservation Zone Assessment, and;

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

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

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

Conditions

Holiday use

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

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

Materials

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

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

Design details

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

(1) Eaves overhang

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

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

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

Construction method statement

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

- (1) Identification of parking of vehicles of site operatives and visitors.
- (2) Positions for loading and unloading of plant and materials.
- (3) Location of site compound for storage of all plant and materials used in constructing the development.
- (4) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (5) Facilities for wheel washing.
- (6) Detailed measures to control the emission of all material, liquids, dust and dirt during construction particularly in relation to impact on the quality of seawater.
- (7) Details of a scheme for recycling/disposing of waste resulting from construction works.
- (8) Lighting plan confirming minimal light spill to landward side of the development.
- (9) Hours of construction to be restricted to daylight hours only.

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

Retaining wall

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

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

Landscaping plan

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

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

Footpath

Prior to any works to reinstate the disused footpath at the rear of the building hereby approved leading up to the public highway, full details of its construction including any proposed means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The point of access of the footpath to the public highway shall be clearly marked on the scheme along with details of the access to the public highway. Once agreed, the works to reinstate the footpath shall be carried out in strict accordance with the approved details and shall be completed prior to the occupation of the units.

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

Waste management plan

Prior to first occupation of the development hereby approved, a Waste Management Plan detailing measures for the control of litter relating to the operation of the development hereby approved and for the recycling, storage, and collection of waste likely to be generated by the development has been submitted to, and approved in writing by, the Local Planning Authority. Once agreed, the development shall be

operated in strict accordance with the Waste Management Plan unless otherwise agreed in writing by the Local Planning Authority.

Reason: To ensure the provision of satisfactory facilities for waste, and to avoid ecological harm to the Torbay Marine Conservation Zone and the Lyme Bay and Torbay Special Area of Conservation, and in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan.

Foul Drainage

Prior to the first occupation of the development hereby approved, a foul drainage connection to the mains sewer shall be provided in accordance with the foul drainage strategy hereby approved. Once provided, the foul drainage system shall be retained and maintained in good working order for the life of the development hereby approved unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of development amenity and avoiding ecological harm, in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030.

Lighting plan

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

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

Bird breeding season

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

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

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

Flood risk assessment

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

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

Parking and access management plan

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

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

Bin storage

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

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

Kiosk

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

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

Ecology

The development hereby approved shall proceed in strict accordance with the recommendations set out in the Ecological Assessment Report and the Construction Environmental Management Plan hereby approved, with particular attention to measures for the control of dust and pollution during construction works and to the recommended biodiversity enhancement features.

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

Geotechnical survey

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

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

Crime prevention plan

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

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

Access

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

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

Voluntary no-anchoring zone

No development shall take place until written agreement has been provided from all necessary third parties (including the Tor Bay Harbour Authority and the Marine Management Organisation) regarding the number, position, means of fixing to the sea bed, and the detailed specification of additional marker buoys to be placed in the sea to increase awareness amongst operators of watercraft of the voluntary no-anchoring zone around Beacon Cove due to the presence of sea grass beds. The development hereby approved shall not be occupied until the additional marker buoy(s) have been placed in accordance with the agreed details prior to occupation of the development hereby approved, and shall be retained and maintained in that condition for the life of development, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of protecting and enhancing the sea grass beds located within the Torbay Marine Conservation Zone close to the site, and specifically to avoid ecological harm associated with the anchoring of watercraft, and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and Paragraph 174 of the National Planning Policy Framework.

Geology survey

Prior to commencement of works, a method statement for a geological survey to check for fossils within the application site (excluding the access ramp that leads from the Beacon Quay car park to the west) shall be submitted to and approved in writing by the Local Planning Authority, and implemented in accordance with the timeframe agreed within the method statement.

Reason: In the interests of preserving Torbay's geodiversity, and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

Information board

Prior to first occupation of the development hereby approved, an information board with suitable educational material regarding the ecological context of Beacon Cove and the activities which can cause damage must be provided as part of the development in accordance with details (relating to the size, siting, written and visual content, and appearance of the information board) which shall have been agreed in writing by the Local Planning Authority. The written and visual content of the information board shall accord with the information set out within the ecological documentation hereby approved.

Reason: In the interests of avoiding ecological harm to the Torbay Marine Conservation Zone and the Lyme Bay and Torbay Special Area of Conservation, and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and Paragraph 174 of the National Planning Policy Framework.

Online advertising material

All online advertising material pertaining to the operation/marketing of the development hereby approved shall include suitable educational material regarding the ecological context of Beacon Cove and the activities which can cause ecological damage. The details of this online information shall be agreed in writing with the Local Planning Authority prior to the occupation of any part of the development hereby approved. This information shall be included in all online marketing information relating to the development for the lifetime of the development.

Reason: In the interests of avoiding ecological harm to the Torbay Marine Conservation Zone and the Lyme Bay and Torbay Special Area of Conservation, and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and Paragraph 174 of the National Planning Policy Framework.

Relevant Policies

Torbay Local Plan:

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

Torquay Neighbourhood Plan:

TS4 - Support for brownfield and greenfield development
TE1 – Tourism accommodation on brownfield sites
TS3 – Community led planning
TE7 – Marine management planning
TH8 - Established architecture
TH2 – Designing out crime

THW5 – Access to sustainable transport

TE5 – Protected species, habitats and biodiversity

South Inshore and South offshore Marine Plan, 2018

- S-BIO-4: Proposals must demonstrate that they will avoid reducing the distribution and net extent of priority habitats.
- S-MPA-1: Proposals that support the objectives of marine protected areas and the ecological coherence of the marine protected area network will be supported. Proposals that may have adverse impacts on the objectives of marine protected areas and the ecological coherence of the marine protected area network must demonstrate that they will, in order of preference: a) avoid b) minimise c) mitigate adverse impacts, with due regard given to statutory advice on ecologically coherent network.
- S-CC-4: Proposals that may have a significant adverse impact on habitats that provide a flood defence or carbon sequestration ecosystem service must demonstrate that they will, in order or preference: a) avoid b) minimise c) mitigate significant adverse impacts.
- S-WQ-1: Proposals that may have significant adverse impacts upon water environment, including upon habitats and species that can be of benefit to water quality must demonstrate that they will, in order or preference: a) avoid b) minimise c) mitigate significant adverse impacts.
- S-TR-1: Proposals supporting, promoting or facilitating tourism and recreation activities, particularly where this creates additional utilisation of related facilities beyond typical usage patterns, should be supported
- S-TR-2: Proposals that enhance or promote tourism and recreation activities will be supported. Proposals for development must demonstrate that they will, in order of preference: a) avoid, b) minimise, c) mitigate significant adverse impacts on tourism and recreation activities.
- S-ML-2: The introduction of litter as a result of proposals should be avoided or minimised where practicable and activities that help reduce marine litter will be supported