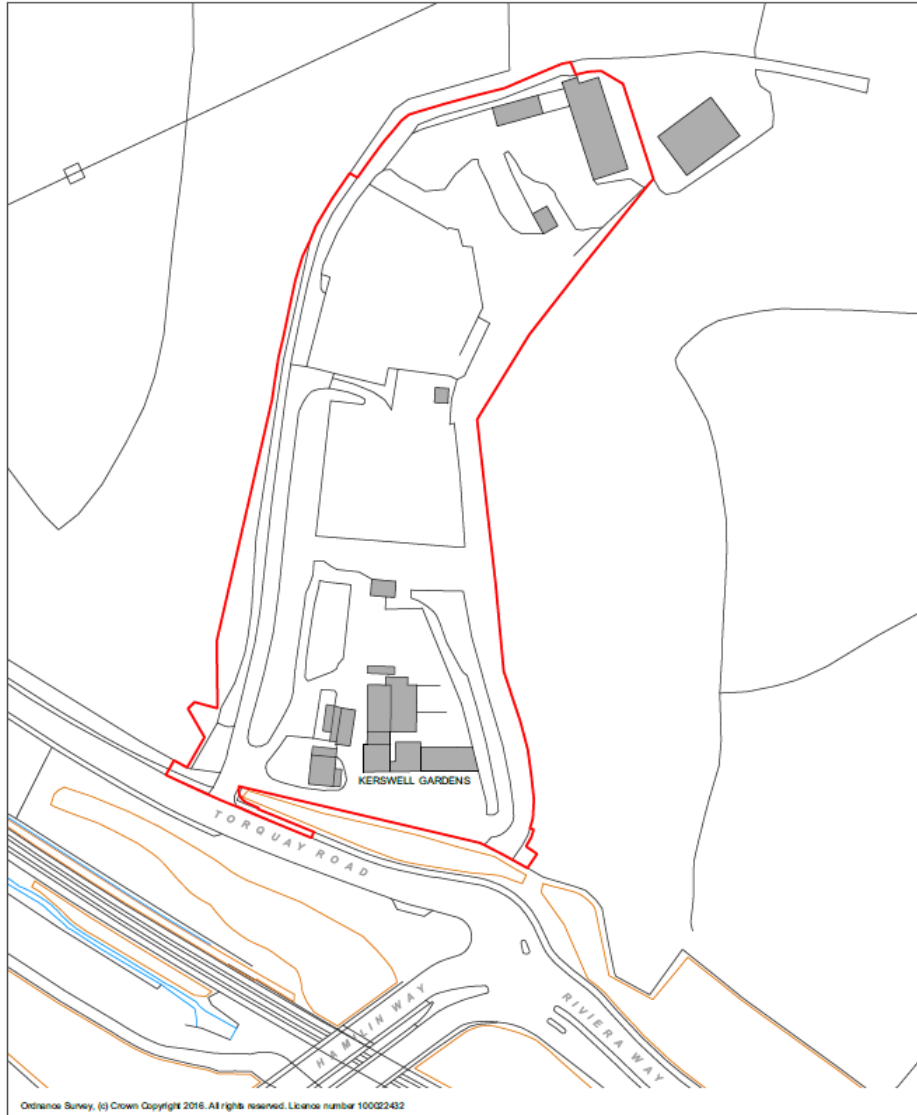


TORBAY COUNCIL

Application Site Address	Devon Garden Machinery Newton Road Torquay TQ2 7HX
Proposal	Hybrid application comprising: (1) Demolition of existing buildings and construction of discount supermarket, drive through coffee shop, drive through fast food restaurant, and replacement retail building for Devon Garden Machinery with associated parking, access, and hard/soft landscaping, together with (2) Outline planning application for Class B2/B8 uses (Please see Teignbridge District Council application number 20/02395/MAJ for this outline element).
Application Number	P/2020/1298
Applicant	Vanessa Brown & Aldi Stores Ltd.
Agent	Planning Potential
Date Application Valid	18.12.2020
Decision Due Date	19.03.2021
Extension of Time Date	29.10.2021
Recommendation	<p>Approval: Subject to;</p> <p>The resolution of highway improvements to pedestrian and cycle infrastructure in the immediate vicinity of the site, to the satisfaction of officers;</p> <p>The resolution of a Surface Water Drainage Strategy for the Outline B2/B8 element, to the satisfaction of Officers;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;</p> <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	Major Development
Planning Case Officer	Scott Jones



Site Details

The site is located on the outskirts of Torquay on the northern side of Torquay Road, west of where Hamelin Way meets Riviera Way.

The site currently holds several buildings and commercial uses, with Devon Garden Machinery being the largest and most publicly visible user due to its scale and location within the southern part of the site adjacent to Torquay Road. The Devon Garden Machinery business contains several relatively low-level buildings of varying forms, together with an area of open storage space to the north. A track along the western edge of the site serves additional uses to the north of Devon Garden Machinery, with further open storage land and undetermined business uses, which are again set in low-level shed-like building forms.

In terms of scale and context the site presents a 'finger' of commercial land that stretches northwards along the floor of a small valley, sitting amongst open fields, and

covers an area of approximately 3 hectares. The site is roughly 100m wide (E-W) by 300m deep (N-S).

Regarding land levels Devon Garden Machinery sits on the low part of the site and there is a gradual rise in the land level as you progress north through the site, which present occasional semi-formalised plateaus. The total rise in level through the site is approximately 13m. There are also banked areas around the western and eastern borders due to the valley floor context where fields rise to either side.

In terms of the borders the site is surrounded on its northern, western and eastern boundaries by mature trees, light vegetation and green banking, with fields adjacent.

Regarding policy context the site sits within the Edginswell Future Growth Area, as designated within the Torbay Local Plan, and is within the adopted 'Torquay Gateway (Edginswell)' Masterplan area, which envisages redevelopment for mixed commercial uses on the land. The site is also within the identified Landscape Connectivity Zone associated with the Greater Horseshoe Bats (South Hams SAC).

Regarding Local Authority boundaries the northern tip of the site sits within the border of Teignbridge District Council.

Description of Development

The application seeks planning permission for the demolition of the existing buildings and the construction of a mixed-use development, consisting of retail, food and drink outlets and light-industrial uses.

The application is a 'hybrid' proposal seeking full planning permission for the demolition of existing buildings and construction of supermarket, drive-through coffee shop, drive-through fast food restaurant, and replacement retail building (for Devon Garden Machinery), whilst seeking outline planning permission for industrial uses (Class B2/B8 uses) at the northern tip of the site.

The proposed supermarket and drive-through coffee shop are in the southern part of the site adjacent to Torquay Road. The supermarket covers a rectangular footprint of around 57m by 32m. It is proposed to a commercial single-storey scale under a gently sloping mono-pitched roof. The elevations are finished in grey cladding panels, using two shades of grey, with elements of curtain wall glazing to the southern and eastern elevations. The drive-through coffee shop is located to the east of the supermarket in the south-eastern corner of the site and will provide around 167 sqm of floor area in a single-storey building. The elevations are a mix of timber cladding and white render, with elements of glazing. The main entrance has a plum/burgundy surround feature aligned with the corporate colours of Costa Coffee. Car parking is set between the two buildings with a further row along the southern border of the site. In terms of levels the proposed ground level is raised up to around 3m in places above the low point to present a level approximately aligned with the existing/proposed access point.

To the north of the proposed supermarket and coffee shop there is a step up in level to the proposed fast-food restaurant, which will have a finished floor level 3m above that of the supermarket. The level change is managed via a retained wall and a graded

and landscaped bank. The restaurant is single-storey and seeks a contemporary form under a split mono-pitch roof. The elevations consist of a combination of light and dark grey cladding panels along with vertical timber panelling together with strong elements of glazing. The footprint is approximately 28m by 11m and around the building is parking for 30 cars encircled by landscaping.

To the north of the fast-food restaurant the next tier seeks to deliver a specialist retail use to provide a replacement building for Devon Garden Machinery, which has a finished floor level 1.75m above the restaurant tier. The building is almost square with a footprint of 35m (E-W) by 40m (N-S) with a simple gabled form with elevations finished in composite panels. Amended plans now present a grey-green composite panel finish with an element of blue cladding around the main corner / entrance. The height is two-storey scale. 17 car parking spaces are provided to the west of the building and there is a gravel storage area to the north of the building.

Beyond the gravel hardstand the proposal moves to the outline element of the application with the plans suggesting the delivery of an L-shaped building for B2/B8 proposes, these being general industry or storage or distribution purposes. Detailed plans are not provided for the outline element with all matters reserved for future consideration. Regarding Local Authority boundaries it should be noted that this element sits within the border of Teignbridge District Council, however for the purposes of the development the neighbouring authority has delegated the decision-taking authority to Torbay Council, hence the application is to be considered as a whole.

In regard to general infrastructure the phases of development outlined above are all accessed off a proposed road that runs along the western edge of the site up to the boundary to where the detailed element of the proposal finishes and the outline element of the proposal begins.

In terms of the proposed access into the site this is retained in its current location off Torquay Road, in the southwestern corner of the site, maintaining a designated right-hand turn into the site.

Pre-Application Enquiry

DE/2019/0030: Siting of new supermarket / KFC / Costa: As a summary position the key issue outlined was that the sequential test needs to find that no other suitable in centre or edge of centre site is available or viable, and if this is the case the retail impact upon centres will then be key. However, either way to provide a better fit with the Development Plan it was advised that any proposal should include for the relocation of the current employer to premises to the rear of the retail unit as this concept is floated within the indicative scheme and hence appears a desirable outcome that could be more demonstrably furthered.

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 Plans

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

- The Teignbridge Local Plan 2013 -2033

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published standing Advice
- Adopted Torquay Gateway (Edginswell) Masterplan
- 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

Non directly relevant.

Summary of Representations

143 representations, 108 in support and 29 in objection, with 5 neutral.

Key issues of concern:

- Traffic and congestion
- Noise
- Poor location out of town
- Potential harm to a key cycle route
- Car based development and location
- Increase traffic through Kingskerswell
- Impact local stores in Kingskerswell
- The masterplan does not envisage a food store in this location and there is inference that bulky goods was to be expected
- The retail impact test is not satisfied, and the current poor trading should be a concern
- The sequential test, as with the retail test, are not so robust such that the authority could reasonably grant planning permission, with the development contrary to the development plan.

Key reasons for support:

- Good location for use by local residents
- Highway concerns will be dealt with by the professionals
- Improve the look / character of the area
- Create jobs
- Helps a local business grow

- Will take pressure off The Willows
- Good location but pedestrian accesses locally should be upgraded to encourage walking
- Good use of the brownfield site
- Will improve choice and reduce travel

Summary of Consultation Responses

Torquay Neighbourhood Forum

Overall the Neighbourhood Forum supports the proposal, reasoning that it provides employment and retail space on a site that is so designated, and is in proximity to the Torquay Gateway (Edginswell) Future Growth Area, subject to the resolution of drainage issues, addressing the concerns of the Police with respect to NP Policy TH2, and the provision of a Waste Audit as required by LP Policy W2. Consider these can be addressed by Planning Conditions.

Highway Authority:

Based upon the information submitted by the applicant within the Transport Assessment, and subsequent Technical Notes 1 and 2, the Highway Authority offers no objection to the proposed development.

It is noted that in the Highway consultation response from Devon County Council regarding the scheme, that a Highway contribution of £20,000 has been requested to increasing gateway features to the reduce vehicle speeds through Kingskerswell, as part of the 20mph zone, which is supported.

Devon County Council Highways

The Highway Authority has no objections in principle to the application for B2/B8 but would need further information at the full application stage regarding the traffic likely to be generated. A Transport Statement would need to accompany any full application.

Although Torbay Borough Council will look at any Highway related issues from the full hybrid application in their area, Devon County Council Highway Authority have the following concerns regarding the impact on Devon's network.

The geometry of the left hand turn from Hamelin Way onto Torquay Road is likely to make it difficult for articulated vehicles to turn effectively and safely without over-running the adjacent lane.

Appendix B shows delivery vehicles entering the site via Kingskerswell rather than using the South Devon Link Road. There is likely to be an increase in traffic using Torquay Road to access the site. From a purely technical point of view there is no issue with this, as the road has capacity, but the idea of the South Devon link road was to take reduce the amount of vehicular traffic travelling through Kingskerswell.

The number of vehicles driving through Kingskerswell has decreased since the South Devon link road opened in December 2015. This however has led to an increase in vehicle speeds. To mitigate the speeding issue, DCC are looking at increasing the "gateway" features into Kingskerswell, particularly in the 20mph zone. If the

application was granted planning permission, then the Highway Authority would look for a Highway contribution of £20,000 towards this scheme.

Retail Advisor (Avison Young)

The application site lies outside of any defined 'town centre' in the Torbay retail hierarchy and is not allocated for the precise nature of the proposed main town centre land uses. Therefore, the development would need to be considered against the sequential test and the retail impact test regarding nearby defined 'town centres'.

With regards to the sequential test it is considered that the main town centre land use elements of this proposal meet the provisions of the sequential test.

With regards to the likely impact of the various retail and leisure elements of the proposal, the same conclusion as the applicants has been found, that there is unlikely to be any significant adverse impact upon defined 'town centres' in the local area.

The above conclusions are directly related to the form and scale of the proposed development and the assumptions which have been made in relation to the trading style of each element. Hence it is recommended that conditions and controls are imposed upon any grant of planning permission, as follows;

The food store to have a maximum net sales area of 1,315sq m, with no more than 20% of this area being used for the sale of comparison goods, with no sub-division of the food store unit into more than one separate retail unit, and control over the use of the food store unit to Class E(a).

Regarding the two food and beverage units given that both units are intended to sell food and beverage items for consumption on and off the premises, identification of these uses as either sui generis or a mixture of sui generis and Class E(b) is recommended.

Regarding the replacement DGM unit there should be a control over the net sales area of this unit, control over the range of goods to be sold from the replacement unit, this should be controlled to garden/agricultural machinery/tools, gardening/agricultural (and related) goods and related services. We would recommend that a draft list of goods and services is sought from the applicant for consideration by the Council.

Natural England

Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Devon County Council Ecologist

Regarding statutory sites whilst impacts on the SAC Greater Horseshoe Bat population have been screened out the mitigation proposed will benefit GHBs through increasing connectivity to the wider landscape. Regarding wider ecology issues, including impact upon locally designated sites, other habitats and protected species conditions to secure approval and implementation of a CEMP and LEMP, lighting detail, protection of bird nesting, and updated badger surveys, and a net gain in biodiversity, the proposal is suitable for approval on ecology grounds.

Devon County Council Archaeologist

The application area has archaeological potential relating to historic medieval landscape character and potential for settlement of prehistoric, Romano-British and medieval date. This potential has not been assessed or evaluated prior to the planning application being submitted, however it is likely that archaeological impacts can be satisfactorily mitigated by condition. Recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of any heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team. If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise that any consent the Authority may be minded to issue should carry WSI condition

Torbay Council Strategic Planning / Transport:

Support further discussion to resolve relatively minor, but still very important, connectivity solutions for pedestrians and cyclists on this key route.

Torbay Development Agency Drainage Engineer:

Following the submission of further information, including a site specific flood risk assessment and dual-option surface water drainage design for the above planning application, the proposal are considered acceptable as they follow the hierarchy and demonstrate that flood risk is unlikely to increase. Due to the need to await further soil testing following the removal of buildings that currently active businesses, further information will be necessary via a planning condition. It is accepted that in this particular circumstance that a final detail can only be established after the grant of planning permission.

Torbay Development Agency Investment Development Manager

Object to this application as would like to see greater levels of light industrial space delivered within the scheme.

To enable us to meet the agreed aims of the Council's economic plan to support local growth and encourage inward investment, we need an increased delivery of relevant employment space. Currently there is over 280,000 sq ft demand (tested Nov/Dec 2020), the majority of which is for light industrial space. Many remaining sites across Torbay are multi constrained, are not financially viable and have significant funding gaps.

Torbay is ranked the 48th most deprived in England. If we are to improve our economic performance and output it is imperative that we support the needs of our growing businesses and inward investors to create higher value, better paid jobs for local residents to increase our GVA per head and reduce deprivation across our three towns.

Torbay Council's Senior Tree and Landscape Officer:

The site is considered sustainable from an arboricultural perspective. Prior to consent being granted the following documents and information should be submitted and approved : 1) A detailed AMS including (but not exclusive to) sequence of site

operations, pre-commencement site meeting for tree protection measures, initial sign of on tree protections, monthly visits to ensure the TPF is in place and fit for purpose, timing of fence removal, protection of RPAs during landscaping 2) Underground structured planting pits to provide sufficient soil volume for the trees within the car parking areas. In addition a compliance condition for all the plans and tree measure as laid out in the Arboricultural Impact Assessment and Tree Protection Plan for trees at Kerswell Gardens, Torquay, should be attached to any consent.

Torbay Council's Community Safety Officer

No objections subject to the inclusion of a condition requiring a construction management plan.

Police Designing Out Crime Officer

From a designing out crime, fear of crime and disorder perspective it is advised that the police raise no objections to the proposal but make the following comments and recommendations, including the consideration of the following condition should the application progress:

Condition: The installation of a vehicle barrier that can be utilised to prevent unauthorised access to car parks if necessary. Reason: to help prevent crime, disorder and anti-social behaviour.

It is noted that there is reference to Secured by Design guidance within the Design and Access Statement and welcome that such principles have been considered in the design of the scheme.

Recommendation: Schemes such as this with large car parks and extended opening hours, can attract anti-social behaviour, unwanted congregation and illegal encampments. Therefore, measures should be in place to mitigate such risks.

Environment Agency

No objections to this planning application provided that a planning condition is included within any permission granted regarding unsuspected contamination.

South West Water

No objection.

Teignbridge District Council

Whilst Teignbridge District Council has devolved its planning control functions in respect of the cross-boundary application submitted, an assessment of relevant national and local planning policy has been undertaken to provide a recommendation to Torbay Council. The principle of the proposed (outline) business uses is in line with the criteria set out under Policy S22 and is therefore considered acceptable.

The information submitted with the planning application satisfy that the proposals within the outline element of the site, will not cause an adverse highway impact or have a likely significant effect on the South Hams SAC. However, it is considered that further information is required in relation to the provision of green infrastructure and flood risk before the application can be determined. Whilst it is acknowledged that these elements can only be considered in outline, matters such as green infrastructure

and flood risk should be considered comprehensively to ensure that the scheme meets the requirement of the Local Plan and the delivery of one element of the site does not prejudice against the future delivery of another. As a minimum, a feasible surface water drainage strategy should be agreed to ensure that the proposed units do not impact on the surface water strategy for the entire application site. It is also recommended that a Green Infrastructure Plan is agreed for the site as a whole and secured by condition as part of any outline permission.

In addition it is advised in regard to the outline to include a green travel plan to accompany a Reserved Matters application, a Transport Statement would need to accompany any full application, however, the impact on the local highway network from the B2/B8 uses is considered acceptable at this outline stage, further survey work if demolition of northern buildings is undertaken after 2022, only restricted external lighting, reptile translocation and ecology measures for reptiles and bats will be required across the site, and a LEMP.

In regard to the full application within Torbay similar biodiversity comments are relevant, it is essential that this scheme enhances and does not degrade the provision for both cyclists and pedestrians, and Devon County Council Highway Authority have raised concern that the geometry of the left hand turn from Hamlin Way onto Torquay Road is likely to make it difficult for articulated vehicles to turn effectively and safely without overrunning the adjacent lane, and DCC are looking at increasing the “gateway” features into Kingskerswell, particularly in the 20mph zone. If the application was granted planning permission, then the Highway Authority would look for a Highway contribution of £20,000 towards this scheme. Finally it is noted that the proposed redevelopment will result in some positive improvements to the appearance and cohesiveness of the green infrastructure of the area over the existing. However, there are landscape concerns that permitting the development will undermine the urban centre land uses of Torquay and introduce urbanising characteristics to the edge of the town where they will have an erosive effect on the character of the town, erode the setting of the gateway and erode the desire for the maintenance of separation between the settlements. The first two affect Torbay but the latter will influence the character of landscape setting of Newton Abbot, Kingskerswell, Abbotskerswell and therefore, there is a landscape objection. If the planning officer is minded to approve the proposed development, it is recommended that the planting shown on the boundary of the Torquay Road is replaced with a simple, bold beech hedge along the boundary.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Highways, Movement and Parking
4. Ecology, Biodiversity and Trees
5. Flood Risk and Drainage
6. The Economy
7. Low Carbon Development, Climate Change and Waste Reduction
8. Other matters

1. Principle of Development

The site has an employment land allocation as identified within the Torquay Neighbourhood Plan under Policy TJ1. The policy cites that new development should help contribute to the strategic needs for employment land for Torquay, as set out in the Local Plan, that the provision of new employment space will be supported across Torquay (consistent with policies for managing development contained within the Torquay Neighbourhood Plan and the Torbay Local Plan), and that the loss of employment uses at allocated employment sites will be resisted, and that support will be given to the retention and improvement of employment space on identified sites. Regarding further strategic advice Policy TS4 (Support for Brownfield and Greenfield development) cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan. Broader assessment of impact will be discussed within this report however the policy inference is one of broad support for brownfield development.

In terms of the Local Plan the site is part of the Edginswell Future Growth Area (identified within Policy SS2) and is identified as an employment site within Policy SS5 (Employment space). Policy SS5 cites that the provision of new, or improvement of existing, employment space will be supported in identified area, which includes the 'Torquay Gateway' area where this site sits. There is also an adopted Masterplan relevant to the site and wider area (Torquay Gateway - Edginswell) and this identifies the site as part of 'Kerswell Gardens'. The Masterplan indicatively outlines retail, light industry and storage/distribution uses. In terms of further strategic policy guidance the Torbay Local Plan Policy SS4 cites that the Council will, in principle, support proposals that deliver employment space and high value jobs. Considering these policies broad goals the proposal is considered to be suitably aligned with the strategic policies to encourage and support employment growth in key areas of Torbay.

Regarding the principle of 'out of town' retail uses on the site Policies TC1 (Town centres), TC2 (Torbay retail hierarchy) and TC3 (Retail development) of the Torbay Local Plan provides the key policy guidance. In summary the combined policy guidance is principally that retail uses should follow a town centre first approach and that out-of-town retail should be resisted where it would harm the vitality and viability of town centres. Development hence needs to pass the sequential test and retail impact test to be aligned with the policy guidance. The application is supported by retail assessment which has been reviewed by an external retail specialist. The specialist advice is that the proposal passes the sequential and retail impact tests, subject to planning conditions restricting the uses to the bespoke uses that have informed the retail assessment. Considering the specialist advice received the proposal is considered aligned with the policy guidance contained within Policies TC1, TC2 and TC3 in terms of accepting the principle of the retail uses in an out of centre location. Linked to this conclusion it is also relevant to note that the adopted Masterplan for the area depicts a mixed use across the site including a demonstrable level of retail. This pseudo allocation within the adopted masterplan supports the broad notion of some form of retail on the site. The commentary is non-specific as it does not define what type of retail is envisaged and hence limited weight should be given to public concerns that the form of retail is non-compliant with the adopted masterplan for the area.

In-line with the guiding policies outlined above, the principle of the mixed-use development is considered in accordance with the strategic goals of the Development Plan. The application is hence considered suitably aligned with the strategic and employment policies contained within the Development Plan, notably Policies TS2 and TJ1 of the Torquay Neighbourhood Plan, Policies SS2, SS4, SS5, TC1, TC2 and TC3 of the Torbay Local Plan, and advice contained within the NPPF. The B2/B8 uses are considered in accordance with Policy S22 of the Teignbridge Local Plan.

2. Design and Visual Impact

The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Paragraph 126). Policy TH8 (Established architecture) is the key policy tool within the Torquay Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. In terms of further advice within the Development Plan Policy DE1 of the Torbay Local Plan outlines the importance of good design and is also a key policy tool in design terms and Policy DE4, which principally seeks development to be built to the prevailing height within the local area.

In terms of context the visual character of the site is currently considered relatively poor, with ad-hoc development sprawling through the site up to the northern extent. There appears little architectural merit to the buildings individually or collectively, and the landscaping quality appears organic and of relatively low value. These conclusions appear supported within the adopted Masterplan that cites that the character and quality of the site is poor and does little to create a 'gateway' character to Torquay.

In terms of context due to the topography of the area the key considerations are how the development would be experienced when using the site, and how comfortably it would sit from immediate public views along the southern border with Torquay Road and how it would sit in terms of medium and longer views from further to the south around the Torbay Link Road and Hamelin Way.

In terms of its general character the development is considered to present relatively well-spaced generally low-lying commercial building complex, to a largely single-storey (commercial) scale. These attributes are deemed to present a basic format for the development that acknowledges the local (established) character with an urban grain and generally massing, and heights, that relate to the surroundings. This presents broad conceptual accordance with guidance contained within the design-based policies of the Development Plan.

Regarding the developments more detailed architectural form and use of materials the supermarket, drive-through coffee pod and drive-through restaurant will naturally sit as the most prominent elements of the development, and almost as a group of retail uses. The architectural form of these elements varies slightly but they are aligned in that they present low-pitched contemporary buildings within a relatively restricted palette of materials based on cladding panels, timber panelling and elements of glazing. Individually and as a pseudo-group of buildings the detailed design of the

three buildings is considered duly positive. In terms of the space around these buildings tree planting and landscaping within the car park adjacent to the supermarket and to the rear of the supermarket has been strengthened following officer discussions with the applicant, and the access route to the rear of the supermarket has been softened through amendments to present a softer planted retaining option along the western side. Moving deeper within the site the replacement retail building for Devon Garden Machinery takes a more industrial form with a simple composite panelled building with limited glazing away from the feature corner entrance. The change in form is considered acceptable in the context of the site's urban fringe location and current form and, following some further negotiation, the originally presented blue finish has been amended to a more muted base colour of grey/green. This will help limit the buildings visual prominence from mid to long views where the landscape backdrop is more noticeable. Away from the building again landscaping around the building is considered to suitably soften the development.

Regarding the outline element of the scheme at the northern tip the proposals present an L-shaped building with parking and areas of landscaping. Shed-like buildings currently occupy this area of the site and sit quietly due to the relatively secluded location at the northern end of the plot. Officers are confident that a future Reserved Matters application could resolve an acceptable form of development within the context, with layout, scale, appearance, landscaping open for future consideration. Teignbridge District Council do not object to the outline proposals on design and visual impact grounds, citing that the baseline of existing character is a material consideration and future development is likely to have a negligible impact.

All matters considered the proposal is considered acceptable in design terms as it is in broad accordance with the aspirations of Development Plan Policies TH8, DE1 and DE4, and advice contained within the NPPF, for the reasons stated above. The Outline element of the proposal is considered in accordance with the Teignbridge Local Plan.

3. Highways, Movement and Parking

The NPPF guides that in assessing specific applications for development it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 110).

The Development Plan, largely through Policies TA1, TA2 and TA3 of the Torbay Local Plan, outlines similar policies goals as the NPPF, but also guides on parking levels and sustainable transport facilities within new development.

The proposal is for an enhanced junction with the adopted highway network within the current junction's location at the western edge of the frontage, maintaining a right-hand turn facility into the site.

Access and Highway Safety

Regarding the access arrangements the Highway Authority have considered the accompanying detail, including the submission of 2 'technical notes' that seek to respond to points raised with the initial submission detail. The proposed access detail is now considered acceptable by the Highway Authority.

In terms of highway network capacity based upon the junction capacity assessments, it can be determined that the resultant trip generation due to the proposed development will not result in an adverse impact upon the operation of the local highway network. The Highway Authority do not raise any objection or concern regarding the network capacity and possible impact upon the nearby light-controlled junction to the east with Hamelin Way and Riviera Way.

In terms of internal movement within the site layout the proposal is considered acceptable in terms of commercial servicing and in terms of the environment it presents to users of the various elements within the site.

Based on the information submitted the Highway Authority offers no objection to the redevelopment proposals in terms of access, servicing and broad highway capacity.

Parking and sustainable travel

The detailed layout presents parking facilities for each element of the development. The ALDI and Costa will have a combined 114 car parking spaces (and 2 waiting bays), of which there are 6 disabled spaces and 4 four electric vehicle charging points, two of which are also disabled. There is also an identified potential for more future electric charging, assumingly based on proximity to pre-installed infrastructure. In terms of general parking the split between the provision for ALDI and Costa is unclear as it appears arranged as an open car park. To the north the drive-through restaurant will be supported by 30 car parking spaces (including two disabled bays) but there is no apparent electric charging spaces demarked within the restaurant element. The replacement DGM building provides for 17 car parking spaces along with a linear pull-in area for vehicles with trailers. Like the restaurant element there is no demarked electric charging spaces within the replacement DGM proposal. The outline B2/B8 phase shows a suggested layout that could provide 26 car parking spaces, although as an outline proposal it simply sits as a potential proposition. In terms of assessment of the proposed parking the level of parking for the supermarket is below the guidance contained within the Local Plan, which would for an out-of-centre convenience store indicates that 129 spaces should be delivered. There is however no objection from the Highway Authority and in the context of the site, and in-light of there being no objection from the Highway Authority, the level of parking is not considered reason to refuse the application and is considered an acceptable level. Regarding the drive-through facilities the level of parking is considered acceptable where policy advice is silent. Regarding the replacement DGM building additional trip analysis has been submitted that overcomes previous concern on the level of parking being potentially too low. To conclude the parking provision is considered acceptable, however electric charging facilities should be sought across all elements and hence a planning condition is recommended to explore delivery, in accordance with the policy aspiration that all new development should, where viable, include provision for electric charging points. In regard to the Outline B2/B8 element Teignbridge District Council do not

object to the proposals on highway grounds and accept that further information would be necessary at reserved matters stage, including the provision of a transport assessment, in order to duly assess the proposal.

Regarding cycle parking 8 stands, 4 of which are covered, providing cycle capacity for 16, is proposed within two locations within the Aldi/Costa element of the development. Further through the site the drive-through restaurant also has 4 stands providing capacity for 8 cycles, but the replacement DGM building is absent of any form of facility. Policy guidance contained within the Local Plan outlines that for non-domestic uses 1 space per every 2 employees should be delivered. Considering the spread of cycle parking and the largely absence of cover within certain elements, improvements should be secured to present acceptable facilities that are to an appropriate level, to both provide for and encourage sustainable travel modes. It is recommended that a planning condition requires details of covered and secure cycle parking facilities to be submitted for each phase prior to the commencement of each phase. The submission should provide an understanding of employment levels within each use and provide for an appropriate level of customer demand as retail elements.

Other Matters

Although the vehicular access is considered acceptable by the Highway Authority there is currently no agreed scheme of highway works to improve pedestrian crossing provision along and across Torquay Road, or how cycle movement in the area is to be best managed. These matters are required considering the area will experience an intensification in use because of the proposals. There are currently evolving proposals that seek to improve pedestrian and cycling crossing provision/access along and across Torquay Road near to the site access. Officers are seeking to resolve this prior to committee however if discussions are still ongoing delegated authority to progress these discussions to an acceptable resolution is requested to Officers. These matters are largely limited to future highway works and are not envisaged to demonstrably alter the currently supported junction assess.

All matters considered, subject to conditions to address matters relating to cycle parking and electric charging facilities, a travel plan for the food-store, and resolution of the pedestrian and cycle connections within the highway network to the satisfaction of officers, the proposals are considered in broad accordance with Policies TA1, TA2 and TA3 of the Torbay Local Plan, Policy THW6 of the Torquay Neighbourhood Plan, and advice contained within the NPPF. The Outline element is considered in accordance with guidance contained within the Teignbridge Local Plan, with no 'in-principle' objection from the neighbouring authority.

4. Ecology, Biodiversity and Trees

In terms of context the site has sporadic informal landscaping throughout, with the existing habitats described as not being of high ecological value comprising scrub, modified grassland, ruderals, and newly planted hedges. In terms of ecological context the site sits on the edge of the South Hams Landscape Connectivity Zone associated with the Greater Horseshoe Bats and is in a curlew bunting consultation zone.

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

Policy C4 seek the retention of trees and other natural features. Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements to protect and enhance those species and habitats.

Paragraph 180 of the NPPF states that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. The anticipated Environment Bill will make it a statutory requirement to provide a 10% net gain in biodiversity.

The application is supported by ecological assessment and the information has been reviewed by Devon County Council Ecology Officer.

Regarding Greater Horseshoe Bats is is deemed that the site is poorly connected to the wider landscape with no linear feature on the western boundary and low scrub / trees on the eastern boundary. Taking the form of development proposed no fragmentation or impact to commuting routes at the landscape scale will occur and the proposal will not therefore result in a likely significant effect on the South Hams SAC alone or in-combination. Further screening and detailed Appropriate Assessment is therefore not required and Natural England concur with this conclusion.

Bats have been recorded using the DGM building (B1) and a European Protected Species Licence (EPSL) will be required prior to demolition of the building. This should be a condition of any planning approval. It is considered that, given the low value of this roost, the three licence tests are met and that Natural England will grant a licence for demolition, which is the position offered by the Councils ecology advisor, and hence the presence of the roost should not hinder the granting of planning permission. In terms of meeting the derogation tests the application is for the sites redevelopment to deliver large-scale employment-based uses on an allocated site for such purposes which would present imperative reasons of overriding public interest for the granting of the licence. There is also no satisfactory alternative as the building is located centrally within the site and the current building could not reasonable be retained and a wholistic redevelopment be delivered. Finally, the proposals will deliver a replacement roost that will retain the favourable conservation status of the species of bat.

In terms of cirl buntings surveys did not record any activity, however as the site sits in a cirl bunting consultation zone and offers suitable habitat, enhancement should be delivered via the landscape management plans for the site. In terms of other bird species it is anticipated that nesting birds will be present and hence vegetation and building removal should be duly managed. In addition nesting facilities should be secured by condition

Regarding reptiles slow worms have been recorded and habitat manipulation should be secured through the landscape management plan to positively manage the population.

Regarding badgers there is no evidence of badgers on the site, however the construction management plan should secure measures for the development to avoid impacts to badgers. Updated badger surveys should be secured by condition prior to work starting.

In terms of biodiversity existing habitats are described as being not of high ecological value, comprising scrub, modified grassland, ruderals, newly planted hedges. The application is deemed to offer the potential to improve the wildlife value of the site and this should be secured through detailed submitted in the landscape management plan. In terms of details currently available new native hedgerows will be planted to replace those lost and result in +26.58% net gain, and wildflower, tussocky and neutral grassland will be created, and native scrub and trees will be planted resulting in a +13.33% net gain. Notwithstanding these conclusions further certainty should be secured by requiring details of habitats lost and the metric calculations to inform adequate net gain, via a planning condition.

Regarding trees the submitted assessment is deemed to accurately reflect the tree stock on the site and although there are a significant number of trees removed, they are however primarily lower category trees. Regarding the retained trees the submitted Tree Protection Plan provides sufficient detail on how the retained trees are to be protected. Method statements have not been submitted and this detail would be required via a planning condition.

In terms of the proposed landscaping the proposals provide a wide range of planting incorporating small medium and large trees. It is however noted that no detail is given as to how the trees within the car parking are to be provided with sufficient soil volume to be able to be retained in the long term and reach full maturity and this detail will be required. The additional planting negotiated through the course of the application is welcomed and will strengthen the landscaping character and value. Conclusion is that the development is considered sustainable from an arboricultural perspective.

Regarding the Outline B2/B8 element Teignbridge District Council do not object but recommend conditions relating to further bat and bird surveys if building demolition within the northern element (B15-B23) is undertaken after 2022, that no external lighting is installed except for low intensity timed lighting, and to seek details via a LEMP condition regarding ongoing management of the site.

Subject to the recommended ecology and arboricultural conditions the proposals are in-line with the aspirations of Policies NC1 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF, and in respect to the outline element in accordance with the Teignbridge Development Plan, with no in-principle objection from Teignbridge District Council.

5. Flood Risk and Drainage

The site sits in the Torbay Critical Drainage Area, as designated by the Environment Agency, but is not in an area of heightened flood risk, sitting in Flood Zone 1. The outline element sits outside the CDA designation as land within Teignbridge.

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 policy outlines a hierarchy for water-flow management within new development, and similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay. Regarding national advice the NPPF guides that 'major' developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.

The full application is supported by a site-specific flood risk assessment and drainage strategy. The submitted drainage assessment confirms that the current site has limited drainage infrastructure, with some of the site draining to a ditch near to the southern border of the site that, via a culvert, drains to a nearby watercourse to the south of the adjacent rail line, and that the remainder of the site apparently is left to drain naturally to the surrounding area.

The proposed drainage strategy presents two options for the site, with SUDS the preferred solution and controlled drainage to the nearby watercourse a secondary option if ground conditions are found inadequate for soakaways. Soil testing has been undertaken to inform the detailed design that suggest infiltration rates will be sufficient for soakaways to be a viable option for the development. However, the presence of buildings within suitable soakaway locations has impeded the ability to undertake testing fully in accordance with established guidance. As Devon Garden Machinery continue to operate on the southern part of the site there is no reasonable option to enable testing to take place in the likely locations of the soakaways. To respond to the site's constraints and to provide certainty in terms of flood risk the drainage strategy presents a fallback position should future testing determine that soakaways are not actually feasible. To account for the eventuality that ground conditions aren't suitable for on-site management via SUDS 'Option B' is for a controlled discharge of surface water via the drainage ditch and highways drain at the south boundary of the site, which feeds the watercourse to the south. The proposed discharge rate for this fallback position is detailed to mimic the equivalent greenfield runoff rate in accordance with local policy guidance.

Regarding the preferred option it is proposed that supplementary infiltration testing will be carried out at locations following acquisition of the site and demolition of the existing structures to confirm the suitability of soakaways and the size of tank required in each area.

The dual strategy and drainage detail has been considered by the TDA drainage engineer and the dual response is accepted as a necessity considering the site constraints presented by ongoing operations. SUDS as the primary solution and controlled drainage to a watercourse as a fallback position aligns with the adopted hierarchy and is supported. Subject to further assessment and agreement of detail the proposition is considered acceptable by the drainage engineer.

The B2/B8 element of the proposal sits within Teignbridge District Council and is an outline proposal. This element is now by an outline drainage strategy that seeks to respond to the comments submitted by Teignbridge District Council, which hadvised that they would expect the submission of a feasible Flood Risk Assessment and Drainage Strategy covering the outline element in line with the SuDS for Devon

Guidance (2017) prior to determining this element. The recently submitted strategy currently being considered by the drainage engineer and comments have been sought from Teignbridge District Council as to whether the detail satisfies their expectation for an outline proposal.

Regarding foul water drainage a single existing foul drain has been identified on site which serves one of the buildings and discharges to a septic tank. The strategy for the development is to connect to the public foul sewer with a pumped foul system. The strategy cites early engagement with SWW has occurred on this solution.

The Environment agency do not object and have required a condition regarding unknown contamination. South West Water do not object.

Considering specialist advice, the 'full' element is considered suitable for approval on drainage and flood risk grounds subject to resolving some minor detail on the strategy and a planning condition requiring the submission of further testing results following demolition of buildings along with a finalised drainage detail that responds to the results. The proposals are, subject to this condition, deemed in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay and the NPPF. The outline element is pending comments from the Council's drainage advisor and Teignbridge District Council and an update will be provided.

6. The Economy

The site has an employment land allocation as identified within the Torquay Neighbourhood Plan under Policy TJ1. The policy cites that new development should help contribute to the strategic needs for employment land for Torquay, that the provision of new employment space will be supported across Torquay (consistent with policies for managing development contained within the Torquay Neighbourhood Plan and the Torbay Local Plan), and that the loss of employment uses at allocated employment sites will be resisted and that support will be given to the retention and improvement of employment space on identified sites.

In terms to the Torbay Local Plan Policy SS4 cites that the Council will support proposals that deliver employment space and high value jobs, and Policy SS5 cites that improvement of existing (or new) employment space will be supported in terms of refurbishment or revitalisation of existing employment estates. Policy SS5 furthers that for major employment or mixed use schemes the Council will seek around 25% of space to be provided as 'B Class' uses.

The TDA object to this application as they would like to see greater levels of light industrial space delivered within the scheme. The Torquay Neighbourhood Forum support the proposal, reasoning that it provides employment and retail space on a site that is designated for such purposes.

The applicant has noted the issues raised by the TDA and presented a viability and employment response. The key messages within the response are as follows.

Policy

The hybrid application proposes outline B2/B8 uses that represent 27% of the proposed floor space and hence the proposal accords with the guidance contained within Policy SS5 notwithstanding the TDAs objection on the amount of 'B' uses. In addition the response re-states the applications broad alignment with the economic policies within both the Torquay Neighbourhood Plan and Torbay Local Plan, and the broad accordence with the adopted masterplan for retail and business uses on the site.

Current constraints / infrastructure investment

Aside Devon Garden machinery, the wider site has been long utilised for somewhat transient low-value/ low-output storage uses, and this is likely to continue due to the current access and infrastructure constraints. It's outlined that there is no site-wide foul drainage, the access is poor, the site suffers from a defective water main that runs at a shallow level through the site, and there is poor internet access. It's cited that the development will address the constraints to the north of the site and will include £2m of infrastructure costs, which will include an electricity sub-station, a new watermain and foul services, and road widening, which would not come forward if the site remained in its current state.

Jobs

The proposal would provide significant employment generating uses on the site, with the supermarket likely to deliver 40 full and part-time jobs, together with up to 91 FTE jobs created through the wider development. Based on standard formula the outline B2/B8 units could deliver around 38 FTE jobs. Aside the basic premise of job creation the proposal also provides replacement, enhanced, premises for Devon Garden Machinery, a long-established local business, which operates out of constrained ad-hoc buildings that do not offer the potential to expand staffing levels. New purpose-built premises would permit the company to expand whilst remaining on site and in Torbay.

Regarding economic considerations the development would present considerable economic benefit through delivering a mix of commercial uses on what is currently a somewhat low-value site. The application is deemed to be aligned with employment policies contained within the Development Plan, notably Policy TJ1 of the Torquay Neighbourhood Plan and Policies SS4 and SS5 of the Torbay Local Plan.

7. Low Carbon Development, Climate Change and Waste

Policy SS14 (Low carbon development and adaptation to climate change) of the Local Plan seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 (Energy) seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The effects on the environment and sustainability have been considered as an integral part of this proposal and the application is supported by a 'Renewable and Low Carbon Energy Statement'.

The Statement cites that construction will aim to meet the highest design and performance qualities, with Building Regulation required u-values being met or

exceeded, with a strategy prepared such that it is aligned with an energy hierarchy around reduce at source – increase energy efficiency – use renewable energy, with particular focus on sustainable building design (reduction of energy consumption at source), provision of energy efficiency measures and the installation of building-integrated low and zero carbon (LZC) technologies.

The conclusion of the energy strategy is that the development achieves a significant reduction in CO2 emission compared to 2013 Building Regulation compliant development, with the development providing a realistic total carbon equivalent emission saving of approximately the 14 tonnes per annum when compared to the Part L 2013 'Baseline' scenario.

The approach outlined is considered to present development that is in accordance with Policies SS14 and ES1 of the Torbay Local Plan.

In regard to waste reduction aspirations a Waste Audit and Management should be secured by planning condition to cover the prevention and to minimise, re-use and recycle waste, minimise the use of raw materials, minimise the pollution potential of unavoidable waste, seek alternative modes of transport (to the use of roads) to move waste (wherever possible), make provision for the storage and collection of waste, and dispose of unavoidable waste in an environmentally acceptable manner. These details respond to the policy guidance contained within Policy W2 of the Torbay Local Plan.

8. Other matters

For the purposes of clarity residential amenity impacts have been considered and discounted due to the absence of immediate neighbours bordering the site. the Development is considered in accordance with Policy DE3 of the Torbay Local and the Outline B2/B8 element is considered consistent with the Teignbridge Local Plan in this respect where Teignbridge have offered no objection on grounds of amenity impact.

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

Job creation is a driver of economic growth and there would be significant economic benefits from both the construction phase and operational phase. There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

The principle social benefit of the proposed development is whether it would help deliver job opportunities in the local area and provide services for local residents, presenting dual benefits that weigh in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on ecology and biodiversity and drainage. These matters have been considered in detail within this report.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essential mitigation as in the case of drainage. It should be appreciated that the site is identified for employment within the Development Plan and is a brownfield site.

The proposed development is in a relatively sustainable location and is considered an appropriate redevelopment of a relatively under-used brownfield site. In respect of the environmental element of sustainable development, the balance is marginally in favour of the development.

Sustainability Conclusion

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

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

CIL

Retail floorspace is CIL liable at £120 per sqm subject to mitigation for existing floorspace. The food store, coffee drive through, restaurant drive-through, and replacement DGM building will be liable.

The total liability is circa £209,880.00 based on the development delivering 3149 sqm of liable floorspace with mitigation for 1903 sqm for existing floorspace, which presents a net level of liable floorspace of 1749 sqm.

As the development is phased it is requested that the CIL payments are phased accordingly, with full payment for each phase paid upon commencement. This is considered reasonable.

The CIL payments are suggested as follows:

- Construction of DGM building (Phase 3). 1,375 sqm and the equivalent of 37.65% of the total chargeable floorspace (3,652 sqm). The suggested chargeable amount for this phase is circa £79,020. This phase is likely to commence in April 2022.
- Construction of Aldi and Costa buildings (Phase 5). This element together comprises 54% of the total chargeable floorspace and the suggested chargeable amount for this phase is circa £113,335. This phase is likely to commence in April 2023.
- Construction of fast-food unit (Phase 6). This element comprises 8.35% of the chargeable floorspace, and the suggested chargeable amount for this phase is circa to £17,525. This phase is likely to commence in June 2023.

S106

None. Para 57 of the NPPF states that planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;
- b) directly related to the development; and
- c) fairly and reasonably related in scale and kind to the development.

The request for obligations by DCC are not considered to meet the tests. Request for further justification requested however the Authority hasn't been provided with any further information to justify the obligation in terms of the tests. Recommend the obligation is not sought.

EIA/HRA

EIA: the development has been screened. 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: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites, in accordance with advice received by Natural ENGLAND and the DCC acting as the council's ecological advisor.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to promote economic growth would produce a positive impact overall and help with the delivery of detailed commercial proposals for a long-identified site.

Conclusions and Reasons for Decision

The proposal is considered acceptable in principle; would not result in unacceptable harm to the character of the area, highway safety, or local amenity; and is acceptable in terms of ecology and flood risk matters.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations.

Officer Recommendation

Approval: Subject to;

The resolution of highway improvements to pedestrian and cycle infrastructure in the immediate vicinity of the site, to the satisfaction of officers;

The resolution of a Surface Water Drainage Strategy for the Outline B2/B8 element, to the satisfaction of Officers;

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

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.

Conditions

Time Limit: Full Planning Permission

In the case of the development hereby granted full planning permission, for the demolition of existing buildings and construction of discount supermarket, drive through coffee shop, drive through fast food restaurant, and replacement retail building for Devon Garden Machinery with associated parking, access, and hard/soft landscaping, the development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which this permission is granted.

Reason: To comply with Section 91(1)(a) of the Town and Country Planning Act 1990 (as amended).

Time Limit: Outline Planning Permission

In the case of the development hereby granted outline planning permission, for Class B2/B8 uses, this permission is subject to the following standard time limits condition:

- that in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
- that the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 92(2) of the Town and Country Planning Act 1990 (as amended).

Reserved Matters

In the case of the development hereby granted outline planning permission, for Class B2/B8 uses, details of the reserved matters set out below (the reserved matters") shall be submitted to the Local Planning Authority for approval in accordance with the second standard time limits condition above.

- (i) layout;
- (ii) scale;
- (iii) appearance; and
- (iv) landscaping.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced. The reserved matters shall be carried out as approved.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

Drainage (Full Planning Permission)

Prior to the commencement of development, excluding demolition, a final detailed surface water drainage strategy for the site subject to full planning permission, which shall be informed by further testing results following demolition of buildings, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall proceed in full accordance with the submitted and approved flood risk assessment and drainage plan and the drainage scheme shall be fully implemented prior to the occupation of the unit to which it relates. The drainage system shall then be maintained at all times thereafter to serve the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Drainage Detail with RM (Outline)

The reserved matters for layout pursuant to the outline consent for B2/B8 uses shall include a detailed surface water drainage strategy in line with the SuDS for Devon Guidance (2017), or any subsequent updated guidance in place at the time of submission.

The development shall proceed in full accordance with the approved surface water drainage strategy and the drainage scheme fully implemented prior to the occupation of the unit to which it relates. The drainage system shall then be maintained at all times thereafter to serve the development

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with the Teignbridge Local Plan 2013-2033 and the NPPF.

Construction Management Plan (PC)

No development shall take place until a site specific Construction Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise and dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:
 - 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Wheel washing facilities.

Development shall take place in accordance with the approved plan.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, In accordance with Policy DE3 of the Torbay Local Plan 2012-2030 and the Teignbridge Local Plan 2013-2033. This pre-commencement condition is required to protect local amenity and highway safety prior to potentially impacting working commencing.

WSI (PC)

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme, or such other details as may be subsequently agreed in writing by the Local Planning Authority.

Reason: To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

CEMP (PC)

No development (including demolition and ground works) or vegetation clearance works shall take place on any phase of the development until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. The CEMPs shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of "biodiversity protection zones".

- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction.
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMPs shall be adhered to and implemented throughout the construction period of the phase of the development that they relate to strictly in accordance with the approved details.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, the NPPF, and the Teignbridge Local Plan 2013-2033. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

LEMP (Full planning permission)(PC)

No development (including demolition and ground works) or vegetation clearance works shall take place until a Landscape and Ecology Management Plan has been submitted to and approved in writing by the Local Planning Authority. The LEMP shall include the recommendations included in the submitted and approved Ecological Assessment and all details relating to mitigation measures, species requirements, and the delivery of a net gain in biodiversity. The LEMP shall also seek to secure management of wildlife habitats for the lifetime of the development, detail for an ecological clerk of works to oversee all wildlife requirements, and set out compliance monitoring reporting to the Local Planning Authority at a timetable to be agreed.

The LEMP shall include a copy of any Licence For Bats issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 (as amended) authorising the works to go ahead, or detail provisions for the licence application and measures to make a copy of any licence available to the Local Planning Authority prior to the commencement of development involving the demolition of Building B1, or confirmation in writing from Natural England that such a licence is not required.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

LEMP (Outline planning permission)(PC)

No development relating the outline planning permission for B2/B8 uses (including demolition and ground works), or vegetation clearance works, shall take place until a Landscape and Ecology Mitigation Plan has been and approved in writing to the Local Planning Authority. The Landscape and Mitigation Plan shall include details of:

- Retention of trees, shrubs and hedges with fencing to protect RPZs during works,
- Biodiversity enhancements,
- Other landscape planting to benefit wildlife,
- Reptile translocation programme and provision of reptile habitat onsite, including hibernacula,

- Provision of replacement swallow nesting sites and swift boxes,
- Provision of bat roost boxes,
- Ongoing management to ensure continued benefits for biodiversity.

Works shall be carried out in accordance with the approved details, prior to occupation of the new units.

Reason: To maintain and enhance the site's biodiversity value in accordance with Teignbridge Local Plan 2013-2033. These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

Vegetation Clearance

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan, advice contained within the NPPF, and the Teignbridge Local Plan 2013-2033.

Further survey work (Outline element)

If building demolition within the northern element (B15-B23) is undertaken after 2022 further bat and bird surveys shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of demolition. Should the presence of bats or nesting birds be found the surveys shall be accompanied by a management and mitigating strategy designed to protect and duly mitigate any impact any protected species present.

All management and mitigation measures approved pursuant to this condition shall be implemented in full and maintained in accordance with the recommendations cited within the approved report.

Reason: To ensure due protection is afforded wildlife, in accordance with advice contained within the NPPF and the Teignbridge Local Plan 2013-2033.

Repeat Badger Surveys (PC)

Prior to the commencement of each phase of development, including all forms of site preparation including scrub clearance, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority. The development shall proceed in full accordance with the approved detail.

Reason: To secure an acceptable form of development in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF, and the Teignbridge Local Plan 2013-2033. This is required pre-commencement to ensure protected species are not unduly impacted.

Infrastructure delivery

Notwithstanding the submitted and approved phasing plans, prior to the first use of phase 5 or phase 6 (the foodstore or drive-through elements), the western access road that is detailed to serve the outline B2/B8 phase of development, shall be completed to adoptable standards, in accordance with the Torbay Highway Design Guidance in operation at that time, to the northern boundary of the full planning permission and the boundary with the outline B2/B8 phase of development.

Reason: In order to aid delivery of an integrated form of development and the delivery of employment uses, in accordance with Policies SS5, SS7, TA2 of the Torbay Local Plan 2012-2030, Policy TS2 of the Torquay Neighbourhood Plan, and the Torquay Gateway (Edginswell) Masterplan and the NPPF.

Retail Restriction Foodstore

The food store hereby approved shall have a maximum net sales area of 1,315sq m, with no more than 20% of this area being used for the sale of comparison goods, with no sub-division of the food store unit into more than one separate retail unit.

Notwithstanding the provisions of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Orders revoking or amending said Orders, the unit shall at all times be used as a food store, Class E(a), and for no other use.

Reason: In order to secure an acceptable form of development in accordance with Policies TC1, TC2 and TC3 of the Torbay Local Plan 2012-2030.

Retail Restriction Drive-throughs

The two food and beverage units, detailed as the coffee shop drive-through and restaurant drive-through uses within the approved plans, which are intended to sell food and beverage items for consumption on and off the premises, shall at all times be used for such purposes.

Notwithstanding the provisions of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Orders revoking or amending said Orders, the units shall at all times be used for the purposes detailed and for no other use.

Reason: In order to secure an acceptable form of development in accordance with Policies TC1, TC2 and TC3 of the Torbay Local Plan 2012-2030.

Retail Restriction DGM

The replacement Devon Garden Machinery building hereby approved shall at all times provide a net sales area of no more than 450 sqm and, notwithstanding the provisions of the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Orders revoking or amending said Orders, the unit shall at all times be used for the purposes of the retail of garden/agricultural machinery/tools, gardening/agricultural (and related) goods and related services.

Prior to the first use of the building a draft list of goods and services for the business shall be submitted to and approved in writing by the Local planning Authority and the use of the building shall be restricted to the uses in this list for the lifetime of the development.

Reason: In order to secure an acceptable form of development in accordance with Policies TC1, TC2 and TC3 of the Torbay Local Plan 2012-2030.

Landscape scheme (Full Planning Permission)

Notwithstanding the plans hereby approved prior to the first occupation or use of the development hereby permitted, a Detailed Landscaping Scheme for the site shall be submitted to and approved in writing by the Local Planning Authority.

The Scheme shall include details of hard and soft landscaping, including all boundary treatments. Where applicable, it shall specify tree and plant species and methods of planting.

The hard landscaping shall be constructed as approved prior to the occupation/use of the development in any phase. The soft landscaping of a phase shall be planted in the first planting season following the occupation/use of the development or completion of the phase of the development to which it relates, whichever is the sooner, or in earlier planting seasons wherever practicable. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and design in accordance with Policies DE1, C4 and NC1 of the Torbay Local Plan 2012-2030, and advice contained within the NPPF.

Landscape implementation (Outline)

All planting, seeding or turfing comprised in the approved landscape details pursuant to the outline planning permission and approved through a reserved matters shall be carried out in the first planting and seeding season following the occupation of buildings, and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with Policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030 and the Teignbridge Local Plan 2013-2033.

Unsuspected Contamination

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

Reason: For the protection of controlled waters, in accordance with Policy ER3 of the Torbay Local Plan 2012-2030.

Trees (PC)

Prior to the commencement of development of each phase, either the full planning permission phase or the outline phase, the following documents and information should be submitted and approved in writing by the Local Planning Authority for that phase:

- 1) Detailed Arboricultural Method Statements, including (but not exclusive to) sequence of site operations, pre-commencement site meeting for tree protection measures, initial sign of on tree protections, monthly visits to ensure the Tree Protection Fencing is in place and fit for purpose, timing of fence removal, protection of Root Protection Areas during landscaping,
- 2) Underground structured planting pits to provide sufficient soil volume for the trees within the car parking areas.

The development shall proceed in full accordance with the approved detail for that phase.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, the NPPF, and the Teignbridge Local Plan 2013-2033. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Trees

The development shall proceed in accordance with the plans and tree measure as laid out in the Arboricultural Impact Assessment and Tree Protection Plan for trees at Kerswell Gardens, Torquay, unless otherwise submitted and approved in writing by the Local Planning Authority.

Reason: In the interests of amenity, design and ecology, in accordance with Policies NC1, DE1 and C4 of the Torbay Local Plan 2012-2030, the NPPF, and the Teignbridge Local Plan 2013-2033.

Highways Standards

Construction of the internal roads and footpaths within the internal layout shall be in accordance with the Torbay Highways Design Guide for new developments in operation at the time of construction. Roads serving each phase of development shall be completed to adoptable standards prior to the first use of each phase.

Reason: To ensure highway safety is not impaired, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Secured by Design

Prior to the first use of each phase of development (evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the business/s meets Secured by Design standards as far as practicable. The approved measures for each phase shall then be implemented prior to the first use of each phase.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy TH2 of the Torquay Neighbourhood Plan.

Energy

The development shall proceed in accordance with the energy saving measures outlined within the submitted and approved Renewable and Low Carbon Energy Statement (Sol Environment Ltd; Oct 2020). The approved measures shall be fully incorporated within each building prior to its first use.

Reason: In the interests of sustainable development and in accordance with Policy SS14 of the adopted Torbay Local Plan 2012-2030.

Waste Audit and Management

No development (including demolition and ground works) or vegetation clearance works shall take place for any phase of the development until a Waste Audit and 5-year Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Waste Audits and 5-year Waste Management Plans shall include measures to:

- a) Prevent and minimise, re-use and recycle waste (including composting where appropriate).
- b) Minimise the use of raw materials.
- c) Minimise the pollution potential of unavoidable waste.
- d) Seek alternative modes of transport (to the use of roads) to move waste (wherever possible).
- e) Make provision for the storage and collection of waste.
- f) Dispose of unavoidable waste in an environmentally acceptable manner.

The Waste Audits and 5-year Waste Management Plans shall be implemented as approved.

Reason: To minimise waste from the development in accordance with Policy W2 of the Torbay Local Plan. These details are required pre-commencement as specified to ensure that waste

generation is minimised from the start of the development and is dealt with in a sustainable way.

Lighting (Full Planning Permission)

Prior to the first use of the development a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The Strategy shall seek to minimise impacts on wildlife and ensure no light spill onto adjacent wildlife habitats, and shall include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with any proposed buildings. The development shall proceed in full accordance with the approved detail and no additional external lighting shall be provided within the development at any time.

Reason: To secure an acceptable form of development in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Lighting (Outline Planning Permission)

Prior to the first use of the development a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The Strategy shall seek to minimise impacts on wildlife and ensure no light spill onto adjacent wildlife habitats, and shall include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with any proposed buildings. The development shall proceed in full accordance with the approved detail and no additional external lighting shall be provided within the development at any time.

Reason: To secure an acceptable form of development in accordance with the Teignbridge Local Plan 2013-2033 and the NPPF.

Parking provision

Prior to the first use of buildings within each phase of development the associated parking within that phase shall have been provided in full, including the provision of the demarked disabled spaces. These elements shall thereafter be retained as parking facilities for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

Electric charging facilities

Notwithstanding details on the approved plans or supporting the application prior to the first use of the drive-through coffee shop, the drive-through restaurant, and the replacement DGM building, details for the provision of electric charging facilities to serve each premises shall be submitted to and approved in writing by the Local Planning Authority.

The approved facilities shall be implemented in full prior to the first use of the development and maintained thereafter.

Reason: To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

Cycle parking provision

Notwithstanding details on the approved plans or supporting the application prior to the first use of each phase of development details of cycle parking provision for employees and visitors for each building shall be submitted and approved in writing by the Local Planning Authority.

The cycle parking facilities shall accord with the policy guidance outlined within appendix F of the Torbay Local Plan and employee facilities should seek to deliver a covered and secure facility for cycle storage.

The approved cycle parking facilities for each phase of the development shall be implemented prior to the first use of each phase and shall be retained thereafter to serve the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy THW6 of the Torquay Neighbourhood Plan.

Highway agreement

Prior to the commencement of development all necessary legal agreements shall be made with the Local Highway Authority in respect to all proposed works to the highway. The agreed works shall be implemented in full prior to the first use of the development.

Reason: To secure all necessary works to the public highway in order to ensure highway safety is maintained and network impacts are adequately managed, in accordance with Policies TA1 and TA2 of the Torbay Local Plan and advice contained within the NPPF.

Travel Plan (Foodstore)

Within 3 months of the first use of the approved foodstore a Travel Plan and Implementation Strategy with SMART targets to seek to meet Policy requirements of 30% modal shift to foot, cycle and public transport, with appropriate mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure sustainable travel modes are duly promoted, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

External Materials

Prior to the installation of the external materials hereby approved within each building a detailed materials schedule for that building, either physical or digital, shall be submitted to and approved in writing by the Local Planning Authority. Each building shall be externally finished in full accordance with the approved materials schedule for that building.

Reason: To secure an appropriate form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and the NPPF.

PD Removal (retail)

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class A, of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), or any Order amending or revoking that Order, no extensions or alterations shall be made to any retail unit hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policies DE1, TA2, TA3, C4, NC1 and ER1 of the Torbay Local Plan 2012-2030 and the Torquay Neighbourhood Plan.

PD Removal Business Uses

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class H and Class J, of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), or any Order amending or revoking that Order, no extensions or alterations, including addition hard standings, shall be made to any business unit (B2/B8 Use Class) hereby approved in outline.

Reason: To maintain an acceptable form of development in accordance with the Teignbridge Local Plan 2013-2033, Policies DE1, TA3 and ER1 of the Torbay Local Plan 2012-2030, the Torquay Neighbourhood Plan, and the NPPF.

PD Removal Flues / Plant

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class I, of the Town and Country Planning (General Permitted Development)(England) Order 2015 (as amended), or any Order amending or revoking that Order, no externally mounted extraction or ventilation plant or equipment shall be installed on any building or within the site, unless in accordance with details previously agreed with the Local Planning Authority, including detail of noise and odour.

Reason: To maintain an acceptable form of development in accordance with Policies DE1, and DE3 of the Torbay Local Plan 2012-2030, the Torquay Neighbourhood Plan, the Teignbridge Local Plan 2013-2033, and the NPPF.

Informative(s)

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

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS4 - The economy and employment
SS5 - Employment space
SS8 - Natural Environment
SS9 - Green Infrastructure
SS14 - Low carbon development and climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 – Parking requirements
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development Amenity
DE4 - Building heights
ER1 - Flood Risk
ER2 - Water Management
ES1 - Energy
W1 - Waste management facilities
W2 – Waste audit for major development and significant waste generating developments
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS2 – Master Plans
TS4 - Support for Brownfield and Greenfield development
TJ1 - Employment

TH8 - Established architecture

THW6: Cycle storage and changing facilities

TH2 - Designing out crime

TE5 - Protected species habitats and biodiversity