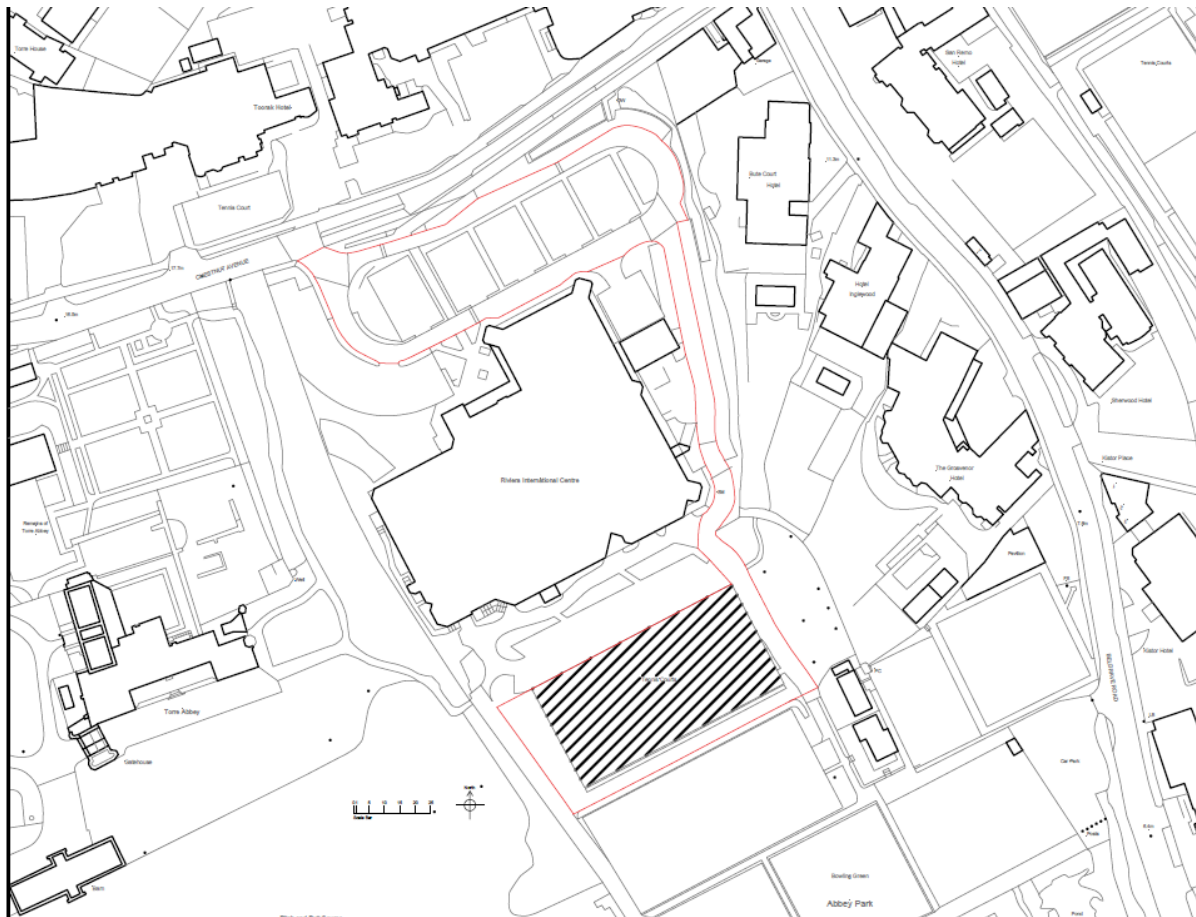


Application Site Address	Riviera International Conference Centre Chestnut Avenue Torquay TQ2 5JU
Proposal	Use of disused tennis courts as climbing facility with climbing frames and clubhouse structures. (Amended plans received 27.09.21.)
Application Number	P/2021/0458
Applicant	Parkwood Leisure Limited
Agent	Bidwells
Date Application Valid	15.06.2021
Decision Due date	10.08.2021
Extension of Time Date	To be agreed
Recommendation	Approval subject to: 1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections through the consultation exercise, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	June Pagdin

Location Plan –



### **Site Details**

The application site comprises five unused tennis courts in the grounds of the Riviera International Conference Centre (RICC) in Torquay. The site measures approximately 0.3 Hectares (plus access route through the RICC carpark) and contains five hard-surfaced courts enclosed in a 3m high chain-link fence.

There are ten tennis courts on the southern side of the RICC grounds, in two rows of five. The row nearest to the RICC building is separated from it by an area of grass-concrete car parking. These five courts have not been in use for some time. The second row is to the south, on slightly higher land, and is used on a turn-up-and-pay basis operated through the nearby kiosk. Beyond to the south are the bowls greens and terraced gardens that lead down to Torquay Road and the promenade at Torre Abbey Sands.

To the east are the grounds of hotels on Belgrave Road, screened by trees in the RICC grounds and in their own gardens. To the west, beyond a line of mature mixed trees, are the grounds of Torre Abbey and the golf course.

The site is within the built-up area of Torquay, in the Core Tourism Investment Area of Torquay (Harbourside, waterfront and Belgrave Road). It lies within Belgravia

Conservation Area and is adjacent to the scheduled monument and Grade I listed building at Torre Abbey. It is within an Urban Protected Landscape Area (No 29 Torre Abbey Meadows and Sports Grounds) in the Local Plan and is designated a Local Green Space (TLGST4) in the Torquay Neighbourhood Plan. It is also covered by an Area Tree Preservation Order and lies within Flood Zone 1, within the Critical Drainage Area.

### **Description of Development**

Full planning permission is sought to change part of the five-tennis-court area to an outdoor climbing facility to be operated all year:

- Provision of two climbing structures; one 3.7m high and one 10.5m high
- Use of timber clad storage cabin (8m x7m) as reception, changing rooms and equipment store – 3m high with stair and spectator seating area on roof
- Provision of ground level spectator seating area
- new fence around climbing facility
- 1.5m wide footpath from existing footpath on north side of courts to entrance of climbing area
- Provision of 8 cycle parking hoops
- Area to be left un-changed - two and half tennis courts.
- Opening hours April to September - 9am to 7pm, October to April - 10am to 4pm.
- Plans indicate removal of two grass-crete car parking spaces to improve pedestrian access to the hard-surfaced area (outside application site)

The scheme has been amended to position the climbing structures at the east end of the site away from the scheduled monument and to omit car parking from the application site.

### **Pre-Application Enquiry**

N/A

### **Relevant Planning Policy Context**

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

#### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Torquay Neighbourhood Plan ("The Neighbourhood Plan")
- Healthy Torbay Supplementary Planning Document (HTSPD)

#### Material Considerations

- National Planning Policy Framework (NPPF 2021)
- Planning Practice Guidance (PPG)
- Published Standing Advice

- Belgravia Conservation Area Appraisal
- 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**

P/1990/0400: Change of Use of Land for Up To 30 Days Per Annum To Allow Operation of Exhibitions/Conferences Inside A Temporary Demountable Structure. Approved 04.05.1990.

### **Summary of Representations**

Approximately five objections and one supporting comment were received in response to the neighbour consultation and site and press notices. In addition, several objections were received from the Torbay Heritage Trust (TCHT).

The objections can be summarised as:

- Lack of disabled access to climbing facility
- Facility would fall into disrepair and could be subject of vandalism
- Structure would need repair and maintenance at a cost
- Proposal should be subject to scrutiny –
- Proposal is not clear (zip wire, climbing wall?)
- Only usable for 3 months of the year
- A year-round facility is needed to better serve people of Torbay
- Loss of tennis court – prefer tennis over climbing – should retain courts for the next generation of players

TCHT comments:

- Noise disturbing the Conservation Area, tennis court users and café users
- Loss of tennis court use
- Court area should be planted with grass and trees to screen brutal 80's architecture
- Proposal would not preserve or enhance the character or appearance of the conservation area
- Proposals are not sustainable
- The site is more part of Abbey Park than of RICC.
- Harms the setting of the Scheduled Monument -Torre Abbey the prime asset of Torquay's Heritage Culture
- Object to use of shipping containers in Abbey Park

Supporting comments:

- Love the idea of climbing frames

Other comments:

- Support the idea of a skate park in the town but not in this location

For clarification, the proposal does not include a skate park, a zip wire or a climbing wall.

## **Summary of Consultation Responses**

Consultation responses can be summarised as:

Sport England: 18.Nov.2021. Note the loss of 2 tennis courts to an alternative sport/physical activity, based on understanding the two courts could be reinstated in the future, if there was a need. The amended proposal has potential to meet the NPPF para 99 c). Note the Council's wider strategic planning assessment and investment with the LTA on tennis in the Bay. Withdraws objection to the amended proposal.

Historic England: 18.Oct.2021. No objection to amended scheme. In NPPF terms the proposal would result in minor harm within the setting of Torre Abbey but at the low end of less than substantial. Suggested hedgerow strengthening between the site and Torre Abbey.

Devon County Council Archaeology: No objection. Initial response sought more information regarding impact on heritage assets. Amended scheme and Heritage Assessment demonstrates reduced impact on the setting of the Scheduled Monument. Additional tree planting on the boundary with the lawns in front of Torre Abbey would reduce the visual impact in winter months. However, the overall impact on the Scheduled Monument is minor and I am no longer raising any objection to the application.

Drainage Officer: 20.12.2021. No objection - the site is located in Flood Zone 1 and there will be no change to the impermeable area of the site, therefore no objections on drainage grounds to planning permission being granted for this development.

Arboricultural Officer: No objections are raised from an arboricultural perspective. There is mention of a footpath from the build to the car park – provided that all works, including enabling works and storage, are located inside the tennis courts there are no significant arboricultural concerns.

Highways and Transportation Department: 16.12.2021 No objection to the amended scheme, subject to a condition securing the cycle parking and seeking weatherproof cover.

Sports Development Officer: Currently updating the Playing Pitch strategy and there are other courts nearby. The high-ropes proposal is part of Parkwood's business plan for the RICC. The community benefit would be the provision of a new physical activity that would provide an alternative to traditional sports in a healthy pursuit in an inclusive space.

Community Safety Officer: No objection

## **Planning Officer Assessment**

## **Key Issues/Material Considerations**

1. Principle of development
2. Impact on Visual Amenity
3. Impact on Heritage Assets
4. Impact on Residential Amenity
5. Impact on Highway Safety
6. Flood Risk and Drainage
7. Sustainability

### **1. Principle of development**

Full planning permission is sought for installation of a year-round, high-ropes and low-ropes climbing facility for residents and visitors including tourists.

The proposal involves change of use of five tennis courts to the climbing facility with two climbing structure and an associated cabin. The climbing facility would use approximately 45% of the courts area. The remaining area would remain open and the amended proposal omits car parking.

#### Healthy Torbay

The Council's Healthy Torbay Strategy aims to improve the health of the people of Torbay and tackle health inequalities. Physical activity is one of the determinants of health and the Council supports provision of healthy activities as one of the preventative measures against poor health. The Healthy Torbay Action Plan focuses on Physical activity as one of ten key priorities and identifies a key action as targeting residents' inactivity through sports and leisure provision. In addition, Policy SC1 of the Torbay local Plan supports developments that provide opportunities for physical activity for residents and visitors.

Climbing is a non-traditional activity exercising the body and mind as an alternative to tennis. The amended proposal has been laid out in an inclusive way that enables use by all age groups. The facility could be used by people with varying levels of ability from beginners to experienced and can cater for people with disabilities. Provision of opportunities to take part in this sport are within the aims of the Healthy Torbay Strategy and Action Plan and the proposal is in accordance with Policy SC1.

#### Sustainable Location

Policy SC2 requires new facilities to be in appropriate locations where they are accessible by a range of transport and comply with other policies of the Local Plan. The application site is located within the Riviera Conference Centre and is off Torbay Road, within 250 metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. The Riviera International Conference Centre is provided with pay and display car parking including disabled spaces in the area next to the application site. There is also on-street parking on Torquay Road. Given this positioning, the proposal is considered to be in an accessible location and to comply with Policy SC2 in this respect.

### Change of use from tennis courts

Policy SC2 requires developments to provide access to sport, leisure and recreation facilities according to the demand, capacity, condition and location of existing facilities. An assessment of existing provision of such facilities will be required with development proposals proportionate to their scale to enable determination of whether a contribution is needed toward new facilities or the enhancement of existing provision.

The Policy goes on to state a presumption against the loss of existing recreational and leisure facilities unless the following criteria are met:

- i) *“An assessment has been undertaken which clearly shows the open space, buildings or land to be surplus to requirements. Or*
- ii) *The loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location or*
- iii) *The development is for alternative sports and recreational provision the needs for which clearly outweigh the loss.”*

This wording reiterates the policy set out in paragraph 99 of the NPPF 2021.

The Council's tennis courts playing pitch strategy is under review and is anticipated to be completed in late Spring 2022. As such, there is not a clear demonstration that the courts are surplus to wider requirements and the first criterion cannot be met at this time.

With regard to the second criterion, the current condition of the courts discourages their use and investment would be required to bring them back into use. The adjacent row of five courts is in a better condition in terms of surface, fencing, nets and floodlighting and is used by members of the public.

The Council's Sport Development Team is preparing a programme of enhancements to the adjacent five courts and is due to submit a bid to the LTA to gain match funding for these proposals. The anticipated schedule is for the near future in 2022 but could not be secured prior to the proposed implementation of the current proposal. The second criterion cannot be fully met at this time.

However, with regards to the third criterion, the proposed climbing use is an alternative sport and recreational activity that is not currently provided for. While there is an indoor facility for low level (4.3m) wall climbing and a gym in Union Street, that facility differs from the current proposal in being all at lower level, indoors and not providing harnesses. The current proposal would differ in providing a larger facility, a wider variety of heights, safety gear, fresh air and also outdoor seating for non-participants. The low and high ropes are supervised and are usable by people with disabilities. The sport is beneficial for strength, flexibility and coordination as well as confidence-building and team-working. These facilities can be popular with families and groups and are not usually available in town centre locations; most are

in out-of-town, woodland locations. The proposal would provide an outdoor facility in a central location accessible by a range of transport modes.

The proposal meets the third criterion of Policy SC2 and so satisfies the test of paragraph 99 of the NPPF 2021.

### Tourism

The site is within the Core Tourism Investment Area (CTIA) of Torquay Harbour and Waterside. Policy TO1 (Tourism, events and culture) supports new tourism facilities particularly growth sectors such as sustainable tourism. The Policy supports in principle the provision of new tourist attractions especially those that are in accessible locations focusing on the Core Tourism Investment Areas.

The proposed facility would add to the range of tourist offers in this seafront location, as well as catering for residents of the area, and enable the creation of additional employment year-round. Therefore, the location within this CTIA is in accordance with Policy TO1.

### Local Green Space and Urban Protected Landscape Area

The application site lies within an Urban Landscape Protection Area (ULPA) as designated in the Torbay Local Plan. Policy C5 of the Local Plan identifies that the landscape impacts of development in these areas requires assessment. This is considered in the following section of this report.

The site lies within a Designated Local Green Space (TLGST4) where Policy TE2 of the Torquay Neighbourhood Plan applies. The Policy rules out development other than in very special circumstances such as minor improvements to community access or facilities that support their use for public recreation or amateur sports. The Policy seeks a style that reflects the setting and is consistent with the LGS designation. The proposed climbing structures would introduce an accessible public recreation facility and revive this part of the Abbey Park. The cabin would be necessary in support of the climbing facility and would be finished in natural materials. The old chain link fence would be removed from around the courts and a new one installed around the climbing facility. As such, the proposal is acceptable in principle in accordance with Policy TE2. The visual impact of the structures further to Policy C5 is considered in Section 2 below.

In summary, the proposal would enhance the range of sport and recreation provisions of the RICC and Abbey Park for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan. The principle of the use is acceptable in accordance with the development plan taken as a whole.

The impacts on the urban environment, open space and heritage setting and other Policies of the Local and Neighbourhood Plans are considered below.

## **2. Impact on Urban Landscape**



Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'.

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

Policy C5 of the Local Plan identifies that development within an Urban Landscape Protection Area (ULPA) will only be permitted where:

- “ 1.It does not undermine the value of the ULPA as an open or landscaped feature within the urban area and*
- 2.It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.”*

Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

Policy TE2 pertaining to Local Green Spaces reads as follows:

*“Development is ruled out, other than in very special circumstances. Very special circumstances may include facilities that support their use for public recreation or amateur sports. ... [Proposals] in a style that reflects the setting and the local area which would be consistent with the LGS designation, will be supported.”*

The application site is positioned between the commercial urban structure of the RICC – a leisure and conference centre and Abbey Park.

The application site is hard-surfaced and enclosed in a 2.8-3m high chain-link fence. It is located between the RICC building and associated rear car park and the more open and elevated tennis courts. The RICC building is an example of 1980's commercial modernist design. It is approximately 22m high with a horizontal emphasis in the concrete and glazed banding of its south elevation. The RICC contains recreational facilities such as the swimming pool with flumes, exercise studios and gym. Abbey Park contains outdoors recreation facilities such as tennis, bowls, and golf (mini and pitch-and-putt). The adjacent tennis courts are on land 3m higher and enclosed by 4m high fencing with floodlight stantions. Beyond to the south are the terraces of Abbey Park, which step down to the sea front. It is within this urban context that the climbing structures are proposed.

#### Appearance of the proposals:

The proposal involves the installation of two climbing frames and a reception and changing cabin, removal of surrounding fence and installation of a new fence around the climbing area.

#### Climbing Structures:

The submitted drawings show that the lower climbing frame would be 3.4m high and the other would be 10.5m high. The low ropes would cover an area of approximately

4m x 15m and be situated on the north side of the application site. The higher ropes would cover an area of approximately 13m x 13m and site to the south of the low ropes. The existing ground surface would be retained. The structures would be built in metal. The metal struts and joists can be painted. The proposed colours are illustrated in the submitted Material Specification (P-2021-0458-26) as grey, green and clay brown. Self-coloured timber is used for the challenge sections and the ropes (with steel wire cores) would be coloured in beige, blue, green and black. These colours would be muted and not unduly prominent in the context of the park-scape.

The proposed structures would be over 20m from the base of the RIC and 30m from the upper storeys. The structures are not solid and there is a high degree of visual permeability between the uprights and climbing elements. While they are tall, they do not present an overly dominant or overbearing form when considered against the backdrops of the RICC and tennis courts.

The cabin:

The proposed reception, office, equipment store and changing area would be in one cabin comprising three steel containers. The cabin would be clad in shiplap timber with a light oak stain. The cladding is of a colour and material that would not be intrusive and are considered to be in keeping with the setting of the tennis courts and surrounding open space. The cabin would be functionally related to and support the climbing structures.

Details of the proposed stair and railing to the cabin roof can be secured by condition. An area has been set aside for ground level seating for spectators, which does not involve any additional permanent structures.

In design terms, it is considered the cabin would be proportionate in scale to the climbing facility site area. It would sit behind the raised area containing the southern five tennis courts and would not result in a significant visual impact on its setting.

Fence:

The existing 2.8-3m high fence would be removed from around the five courts. A new fence would be installed around the climbing facility. The replacement fence measures as 2.75m high in the proposed Section drawings. The replacement fence would not be higher than the existing fence and would not be out of keeping with the setting. The type and colour of fence has not been specified. Details can be secured through a condition. The fence would leave a 1.5m wide footway along the edge of the hard-surfaced area to link with the existing path to the east.

### Visual Impact

The use would reintroduce recreational activity and the visual impact of people exercising is appropriate in this setting, which is in accordance with Policy TE2 and DE1. The climbing structures, the cabin and the fence are not out of keeping with the appearance and character of the immediate context and surroundings and the proposed colours have been selected to reduce the visual impact.

The climbing structures would be visible from beyond the immediate area. Impacts on views from outside the site are considered below in terms of Policies C5 and DE1 of the Torbay Local Plan and Policies TH8 and TE2 of the Neighbourhood Plan.

Views from the Abbey Gardens back towards the RICC the proposed climbing structures would sit within the outline of the RICC building, considerably below the highest point. The selected colours and visually permeable form would not present a bulky solid form and would not be unduly dominant or intrusive in the width and height of the RICC's south elevation. Photomontages in the Heritage Assessment enable the impact of the structures to be illustrated (e.g. Figure 25).

When viewed from the seafront on Torbay Road, the Low Ropes element and cabin would not be seen due to being screened by the changes in land level. The upper sections of the High Ropes would be set within the profile of the RICC, well below the roof level and well within its width (13m compared to 95m). The submitted Section Drawing (003.006A) shows the height and width of the proposed climbing structures compared to the height and width of the RICC building.

Being set down on the lower level of land adjacent to the RICC below the level of the upper tennis courts, the visual impact of the structures on views from the sea would be reduced and the effect is limited in the context of the scale of the bay.

Views from the RICC rear ground floor windows may be impacted slightly but views from upper floors would be retained and, as set out above, the structure is visually permeable and narrower than the RICC building so that a large proportion of the views would be retained.

The site is screened from views from Belgrave Road by the existing hotel buildings (Abbey Sands Hotel), which are three and four storeys high. The High Ropes structure would be positioned over 30m from the rear boundary with that hotel and 80m from the rear of the hotel building. In addition, the boundary is planted with a line of mixed trees, some evergreen and some deciduous, of significant size and which are protected by the Conservation Area status of the location. Given the distance and screening between the two sites, the climbing structures are not considered likely to give rise an overbearing impact on the Hotel.

Overall, the proposal does not undermine the value of the extensive ULPA as a whole as an open or landscaped feature within the urban area. The design, while being functional, uses natural materials and natural colours that would not conflict with the setting. The proposal also supports the use of the Local Green Space for public recreation and would reintroduce a leisure activity to this part of the Abbey Park. The design is of a scale and style that reflect the setting. Removal of the old fencing would open up part of the site and new fencing around the climbing structures would, subject to a condition securing suitable materials, provide an

improvement to the appearance of the fencing. The proposal is, therefore, considered to comply with Policies C5 and TE2.

With regard to Policies DE1 and TH8 the proposal is not considered to be out of keeping with the local character of this part of the RICC and Abbey Park in terms of height, scale and bulk, and the choice of materials and colour are considered to reflect the identity of its surroundings.

Therefore, subject to the above-mentioned conditions over cladding and storage, the proposals are considered to be in accordance with the above cited Policies.

The impacts on heritage assets of Torre Abbey grounds and Conservation Area are considered in the section below.

### **3. Impact on Heritage Assets**

The site lies within the Belgravia Conservation Area and is adjacent to the Torre Abbey (Grade 1 Listed Building and Scheduled Monument).

Guidance on considering the impacts on designated heritage assets is provided in Paragraphs 199 to 208 of the NPPF (2021). Paragraph 199 states that great weight should be given to an asset's conservation and the more important the asset the greater the weight should be. Paragraphs 201-202 state that "where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal". Policy HE1 of the Local Plan requires developments to preserve the setting of listed buildings and their settings.

#### Scheduled Monument and Listed Buildings

Scheduled Monument (Torre Abbey ruins) and Grade I Listed Building status (Spanish Barn and Torre Abbey House) are both recognitions of an asset of great importance. Therefore, great weight is due to the preservation of Torre Abbey and its setting. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires local planning authorities when considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Historic England and Devon County Council's Archaeologist objected to the original proposed location of the cabins and climbing structures at the western end of the application site. The line of trees between the application site and the scheduled monument, although high, is comprised of mixed deciduous and evergreen species. It was not considered an adequate year-round visual screen between the proposed climbing structures and the Abbey's setting. They recommended that an alternative site be identified further from the Scheduled Monument in a location that would not compromise the monument's setting, which was part of the 12<sup>th</sup> Century Premonstratensian monastery's domain.

An amended location is proposed at the eastern end of the application site, further from the Scheduled Monument (approximately 100m) and Listed Buildings. A

Heritage Assessment was also submitted which illustrated the degree of visibility of the proposed development in summer and in winter from positions adjacent to the Scheduled Monument and the Listed Buildings. Devon County Council's Archaeologist and Historic England (HE) consider the impacts of the revised proposal to be minor and have no objection to the proposal.

HE did suggest enhancing the boundary planting through hedge planting but the boundary fence is beyond the application site boundary. In addition, a certain amount of intervisibility enables natural surveillance for people using the footpaths in this area.

The amended proposal is considered to be in compliance with Policy HE1 of the Local Plan Policy TH8 of the Neighbourhood Plan.

### Conservation Area

The Listed Buildings and Conservation Areas Act 1990 gives Local Planning Authorities (LPAs) powers in regard to heritage assets. Section 72 requires an LPA, in determining planning proposals, to have special attention to the desirability of preserving and enhancing the character or appearance of a conservation area.

Policy SS10 of the Local Plan states that development proposals will be assessed against criteria including the need to conserve and enhance conservation areas while allowing sympathetic development within them.

The introductory section of the Belgravia Conservation Area Appraisal describes the area as containing residential suburbs, major hotels and significant amount of open space. Apart from Torre Abbey, most of the buildings date from 1860 and after. The RICC is a recent addition and quite rare example of modern architecture in this setting. The area includes coastline, parks, recreation grounds, the walled gardens of Torre Abbey, the Royal Terrace Gardens and private gardens and terraces of numerous hotels.

Therefore, a key element of the Conservation Area's character is its provision of formal and informal recreational opportunities within the historic setting. The recreational activities in the RICC grounds are an intrinsic part of that setting with pedestrian walkways and seating for spectators. The tennis courts are hard surfaced and surrounded by a 3m high chain-link fence and they make a neutral contribution to the Conservation Area at present.

Policy SS10 seeks to maintain the character of the conservation area while allowing sympathetic development. The proposal would introduce a structure to this open setting. However, as set out in the considerations of Urban Landscape, the design aims to minimise the impact on the Conservation Area and wider setting while providing recreational opportunities appropriate to the character of the conservation area.

The impact on the conservation area is considered to constitute a less than significant harm. In accordance with Policies SS10, HE1 and paragraph 202 of the NPPF (2021) the harm is to be weighed against public benefit of the scheme. These were identified in the Principle of Development section of this report as

supporting and diversifying and expanding the tourism economy and providing opportunities for healthy physical activities for residents and visitors.

Subject to the cladding of the cabins being completed prior to their installation and other recommended conditions of this report it is considered that, in this case, the public benefits outweigh the less than substantial harms.

#### **4. Impact on Amenity**

Policy DE3 requires all development to provide a good level of amenity for users and the surrounding uses in terms of noise, nuisance, and air pollution.

Main concern of objectors is potential for noise from customers using the climbing facility. The use as a climbing frame can result in people's voices being heard as they take part in the activity. However, the level of noise is not generally louder than other sports/leisure activities such as tennis when people may call out. The nearest sensitive use is the Hotel in Belgrave Road – the nearest window is over 80m away.

The proposed hours of operation are from 9am to 7pm in summer months April to September and from 10am to 4pm in winter. Consequently, subject to a condition limiting the opening hours, the proposed use is not likely to give rise to a noise nuisance at unsocial hours.

The proposal should also provide storage for containers for waste and recycling inside the cabin. Collection of waste and refuse would be included in the overall operation of the RICC.

Subject to the above-mentioned conditions the proposal is considered to be acceptable with regard to the amenities of the area further to Policies DE3 and W5 of the Local Plan.

#### **5. Impact on Highway Safety**

Policy TA1 and TA2 promote sustainable locations for new developments and require adequate accessibility and safety to meet the needs of the development. Policy TA3 seeks car and cycle parking standards to be met.

The application site is located within the RICC grounds on Torbay Road and Chestnut Road. It is on a major bus route within metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. Cycle parking is available at the Riviera Centre.

For car access, Torquay Road provides metered parking. The site is accessed from Torbay Road by a flight of stairs, from Torre Abbey grounds by a footpath and directly from the RICC rear car park.

Given this positioning, the proposal is considered to be in a sustainable and accessible location. The proposal provides an opportunity for people to experience

climbing without having to drive to a remote cliff/rock outcrop or forest. It provides opportunities for participation in this sport to those who do not have access to a car.

Policy TA2 requires layouts that contribute to footpath networks. The entrance to the climbing facility links into the footpath network around and beyond the site. The proposal involves removal of two parking spaces to enable pedestrian access directly from the rear car park into the new facility. This loss is minor and does not affect the overall parking provision for the RICC.

The Highways Section has been consulted and has no objection subject to a condition to secure the cycle parking provisions and to seek weatherproof coverings for them. An additional eight hoops, which would accommodate 16 cycles, are proposed within the application site. These can be secured through a planning condition see above.

The proposal initially included a car parking area with 56 parking spaces on the remaining two and a half tennis courts. This aspect has been removed pending the outcomes of the Council's Sports Pitches Assessment and a wider car parking assessment of the RICC site and vicinity.

Subject to this condition the proposal is considered to be acceptable further to Policies TA2 and TA3 of the Local Plan.

## **6. Flood Risk and Drainage**

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

The site is within the Torbay Critical Drainage Area and in Flood Zone 1. A Flood Risk Assessment was submitted, stating that the existing surface water drainage system would be used. The proposal does not involve an increase in impermeable area. The facility would not be open to members of the public in flooding events or if a flood warning had been issued for this area of Torquay.

The Drainage Officer was consulted and had no objections. Subject to implementation of the FRA the proposal is in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

## **7. Sustainability**

Policies SS14 and ES1 of the Local Plan seeks to promote a low-carbon form of development with adaptations to climate change so as to minimise carbon emissions and make more use of natural renewable resources.

The proposal is in a sustainable location where customers do not need to drive to access it. The cabins are constructed of natural materials: metal and wood. The climbing frames are constructed of similar materials.

The activity does not require carbon rich energy sources to be operated. The reception and changing cabin would use electricity to operate (e.g. internal lighting and operation of office functions) - the source of which would be from the general grid, which increasingly is supplied from renewable sources.

The proposal is considered to comply with Policies SS14 and ES1,

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

Human Rights Act - The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. 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.

With regards to people with mobility disabilities, the applicant has amended the scheme to provide level access and seating for spectators at ground level for those who are not able or willing to climb to the roof top spectator area.

### **Local Finance Considerations**

S106: Not Applicable

CIL: Not Liable

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

The proposal would enhance the range of sport and recreation provisions of the RICC and Abbey Park for residents, visitors and tourists in accordance with the Healthy Torbay Strategy and Policies SC1, SC2 and TO1 of Torbay Local Plan and Policy TE2 of the Torquay Neighbourhood Plan.

The visual impacts and identified harms to the setting of the Torre Abbey Scheduled Monument and Grade I listed Building are at the lower end of less than substantial. these harms are considered to be outweighed by the public benefits of the proposal to create accessible and inclusive recreation facilities. The proposal is, therefore, considered to be in accordance with the development plan taken as a whole, subject to conditions over the use, appearance and management of the site.

### **Officer Recommendation**



Approval subject to:

1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional 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 Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

### **Draft Conditions**

1. Details of the materials and colour of the new fencing around the climbing facility shall be submitted to and agreed in writing by the LPA prior to the commencement of above ground construction. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: In the interests of the visual appearance of the area including the Belgravia Conservation Area further to Policies DE1, and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

1. The cabin hereby permitted shall be clad in the manner and materials set out in the Container Specification (Drawing No P-2021-0458- 27). The climbing structures shall be finished in colours and materials set out in the Materials Schedule (Drawing No P-2021-0458- 26). The structures shall be retained in that condition for the lifetime of the development.

Reason: In the interests of the visual appearance of the area including the Belgravia Conservation Area further to Policies DE1, and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

3. Storage of rental equipment when it is not in use shall be limited to inside the cabin hereby approved. No rental equipment shall be stored on the open site or on the footpath or adjacent land. Waste and refuse shall be stored inside the cabins and not on open areas.

Reason: In the interests of the visual amenity of the site and pedestrian convenience further to Policies DE1, DE3 and TA2 of the Local Plan.

4. The cabin shall be used in association with the High and Low Ropes structures and not be used for other uses within Class F as defined by the Town and Country Planning (Use Classes) Order 1987 or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason: in the interests of the amenity of the site and its vicinity within the Belgravia Conservation Area and Local Green Space further to Policies DE1, SS10, and DE3 of the Local Plan and TE2 of the Torquay Neighbourhood Plan.

5. The site shall only be operated for the use hereby permitted between the hours of 9am to 7pm in summer (April to September inclusive) and 10am to 4pm in winter (October to March inclusive).

Reason: In the interests of the amenities of Abbey Park and neighbouring occupiers further to Policy DE3 of the Torbay Local Plan.

6. The ground level seating area shown on Plan No 003.002E is to be made available and provided with seating for spectators prior to first operation of the facility hereby permitted and retained thereafter.

Reason: In the interests of amenity and access of all sectors of the community further to Policy DE1 of the Torbay Local Plan.

7. The development hereby approved shall be implemented in accordance with the drainage and flood mitigation measures identified in the submitted Flood Risk Assessment (dated 26.05.2021).

Reason: In the interests of public safety and preservation of water quality in the event of flooding further to Policies ER1 and ER2 of the Local Plan.

8. The development hereby permitted shall not be brought into use before the following have been installed and made available for use by customers of the climbing facility:

- a) the pedestrian access from the adjacent car park formed by removing two parking bays and shown on the Site Layout Plan 003.002E,
  - b) the 1.5m wide footpath along the north edge of the site has been provided.
- These provisions shall be retained for the lifetime of the development.

Reason: In the interests of pedestrian and cycle access to the site further to Policy TA2 of the Torbay Local Plan.

9. Cycle parking details shall be submitted to and agreed in writing by LPA before first use of the development hereby approved. The cycle parking shall be implemented in accordance with the approved details prior to the first use of the climbing facility and retained as such for the lifetime of the development

Reason: In the interests of reduction of carbon fuel usage and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH9 of the Adopted Torquay Neighbourhood Plan 2012-2030.

10. Prior to any above ground development on the site a scheme for external lighting of the development shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

Reason: In the interests of the amenities of Abbey Park and neighbouring occupiers further to Policies DE1 and DE3 of the Torbay Local Plan and Policies TH8 and TE2 of the Adopted Torquay Neighbourhood Plan.

## **Relevant Policies**

### *Torbay Local Plan:*

TO1 Tourism, events and culture

SC1 Healthy Bay

SC2 Sport, leisure and recreation

DE1 Design

SS10 Conservation and the historic environment

HE1 Listed buildings

DE3 Development amenity

TA1 Transport and accessibility

TA2 Development access

SS8 Natural environment

C5 Urban Landscape Protection Areas

NC1 Biodiversity and geodiversity

ER1 Flood risk

SS14 Low carbon development and adaptation to climate change

ES1 Energy

### *Torquay Neighbourhood Plan*

TH8 – Established Architecture

TE2 - Local Green Spaces