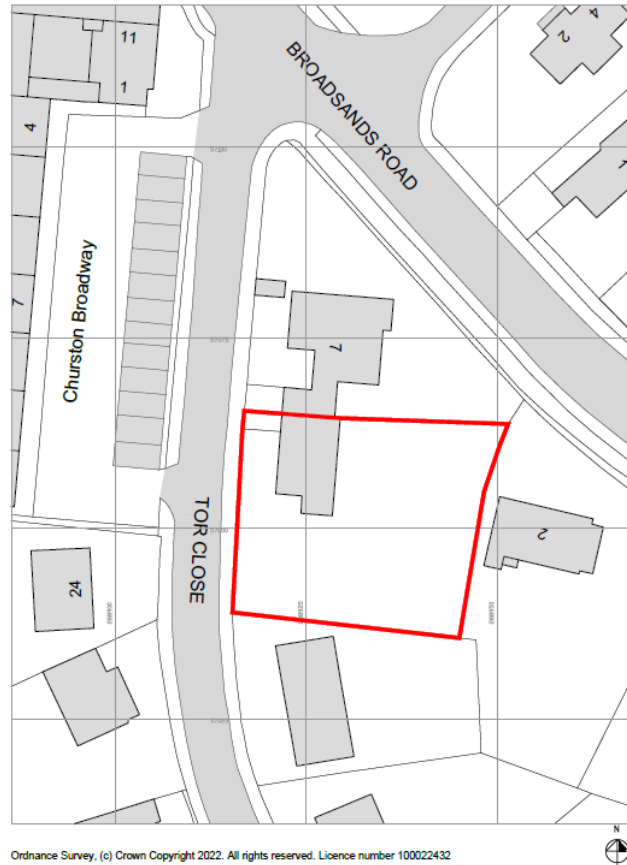


TORBAY COUNCIL

Application Site Address	8 Tor Close Paignton TQ4 6LB
Proposal	Formation of side and rear extension and fenestration changes to existing dwelling and construction of new dwelling in adjacent garden with associated works.
Application Number	P/2022/0625
Applicant/ Agent	Mr. Tony Horsey
Date Application Valid	16/06/2022
Decision Due date	11/08/2022
Extension of Time Date	16/09/2022
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>The completion of a Unilateral undertaking legal agreement to secure £95 payment to mitigate the impact of additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC.</p> <p>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.</p>
Reason for Referral to Planning Committee	The Service Manager for Development Management has referred the application to the Planning Committee due to the level of public interest in the application.
Planning Case Officer	Verity Clark



Site Details

The site, 8 Tor Close, Paignton, is a two-storey dwelling linked via a garage to 7 Tor Close. The dwelling features a spacious curtilage with garden area located to the rear (east) and side (south). The dwelling benefits from an existing garage and parking area to the front (west) with direct highway access to Tor Close. The remaining western boundary is comprised of a boundary hedge.

The site forms part of the built-up area and is located within a Greater Horseshoe Bat sustenance zone and connectivity zone. The site is also located within 5km of the Berry Head SAC.

Description of Development

The proposal seeks permission for the formation of a single storey side and rear extension and fenestration changes to the existing dwelling in addition to the construction of new dwelling in the side garden with associated works including a new access.

Revised plans were received during the application removing the originally proposed two storey side extension to the host dwelling from the application and substituting it for a single storey extension.

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 Adopted Brixham Neighbourhood Plan (BNP)

Material Considerations

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

Relevant Planning History

P/2021/1347: Non-Material Amendment relating to application P/2021/0671. Amendments sought: 1) changing from a flat roof front porch to an apex roof 2) two small windows in the kitchen area on the south elevation. Approved 03/02/2022

P/2021/0671: Formation of two storey extension to side. Approved 06/08/2021

P/1982/1161: Extension To Garage. Approved 02/07/1982

Summary of Representations

At the time of writing 40 objections and 4 letters of support have been received (these are available to read in full online). Issues raised:

Objections:

- Loss of light
- Out of keeping
- Contrary to Broadsands Village Design Statement
- Contrary to Neighbourhood Plan
- Contrary to NPPF
- Wildlife/ecology
- Trees
- Parking
- Increase in vehicles parked on road
- Access
- Highway safety
- Sets a precedent
- Spacing of properties
- Overdevelopment

- Overlooking/ reduced privacy
- Works to existing dwelling reasonable, new dwelling constitutes overdevelopment
- Visual amenity
- Boundary hedge with 9 Tor Close in shared ownership and therefore cannot be removed – side entrance/ passage cannot be constructed
- Existing dwellings in Tor Close feature reasonably large plots
- No consultation with neighbouring properties
- Increase in development footprint
- Overmassed/ out of proportion
- Building regulations
- Accuracy of plans
- Separation distances
- Development density
- Impact on tourism from housing development
- Noise
- Unnecessary housing

Support:

- In keeping with surrounding properties
- Torbay has a shortage of suitable family homes
- Objections relating to parking seem unjustified
- Provides housing
- Ample space within plot
- Garage on side separates new build from neighbour
- The windows do not overlook neighbouring properties
- Design
- Trees/ecology
- Parking provision
- Planning history
- Impact on businesses – no impact
- Taken on board Neighbourhood Plan

Summary of Consultation Responses

Broadsands, Churston and Galmpton Neighbourhood Forum: Broadsands, Churston and Galmpton Neighbourhood Forum object to the construction of a new dwelling in this planning application. The additional dwelling would be contrary to policy DE1 in the Local Plan and the Brixham Peninsula Neighbourhood Plan Village Design Statement relating to proportionality. Tor Close is characterised by well spaced villas within moderately spacious plots. Infilling this plot with a 4 bed house would be out of character and detrimental to the street scene.

The Highway Authority: The Standing Advice applies to this proposal (<https://www.torbay.gov.uk/council/policies/highways/standing-advice/>). If the Development fails to meet the requirements of the HSA, it should be considered as an objection by the Local Highway Authority.

Drainage Engineer (Torbay Development Agency): As the development is located in Flood Zone 1 and the developer is proposing to discharge his surface water drainage using soakaways, please use the recently agreed standing advice for this planning application.

South West Water:

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that discharge to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

Green Infrastructure Manager: From a desktop review of the application the site will require clearance to facilitate the development. The vegetation is of low quality and amenity. No objection is raised from an arboricultural perspective on the removal. If planning consent is granted standard condition for landscaping is to be used.

Natural England: No response received.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Residential Amenity
4. Highways, Movement and Parking
5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change

1. Principle of Development

The proposal is for the formation of a single storey side and rear extension to the

existing dwelling in addition to fenestration changes, and the formation of a new dwelling within the curtilage of No.8 Tor Close.

In the context of householder development within the built-up area there are no Development Plan policies indicating that the proposal is not acceptable in principle. It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed. As the Council cannot demonstrate a 5 year housing land supply the tilted balance in favour of sustainable development is applicable as required by the National Planning Policy Framework (NPPF)

Paragraph 11 of the NPPF states:

Plans and decisions should apply a presumption in favour of sustainable development.

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 8: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 74); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.

The site is located within the Broadsands Settlement Boundary as defined by Policy E2 of the Brixham Peninsula Neighbourhood Plan, which states that subject to compliance with the other policies of the Neighbourhood Plan, proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement as per Policy BH5 of the Brixham Peninsula Neighbourhood Plan.

This broad position is subject to wider policy considerations that are relevant to the development proposal.

2. Design and Visual Impact

Paragraph 126 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 134 states that 'development that is not well designed should be refused, especially where it fails to reflect local design and government guidance on design'. 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 BH5 of the Brixham Peninsula Neighbourhood Plan states that all new development should demonstrate good quality design and respect the character and appearance of the surrounding area. Policy BH6 of the Brixham Peninsula Neighbourhood Plan provides design guidance in relation to roofscape and dormer management that would also be applicable for new dwellings.

The proposal is for the formation of a single storey side and rear extension to the existing dwelling alongside fenestration changes and the removal of a rear balcony and the formation of a new dwelling within the curtilage of No.8 Tor Close. Revised plans were received during the course of the application reducing the originally proposed two storey side extension to a single storey extension following concerns raised by the Officer.

The proposed single storey extensions to the existing dwelling would appear as subservient additions. The proposed extensions and alterations, including replacement white UPVC windows and doors to the existing dwelling would maintain the dwelling's characteristics and would remain in keeping with the local area and streetscene. The size, scale and design of these proposals is therefore considered to be acceptable.

Tor Close is primarily characterised by large detached properties set within generous plots. A large number of these have been extended with single storey elements extending to side boundaries however most are softened with planting and boundary hedges. The result is a spacious characteristic with gaps in the streetscene. The Broadsands Village Design Statement which is referred to in the Brixham Neighbourhood Plan identifies Tor Close from section 5.2. Paragraph 5.2.8 states:

Any new development by builders or individuals in this area should maintain or echo similar qualities by ensuring the maintenance of:

- *Proportionality. Roof height (one or two storey only so as not impact adversely the views of neighbours which are a feature of the area), footprint on plot (retaining an air of spaciousness within the plot), low massing of development (individual dwellings, not multiple unit buildings).*

The proposal seeks to subdivide the plot to form a new dwelling. Concerns were raised with the proposal originally submitted (with the inclusion of a two storey side extension on the host dwelling) as Officers considered that the scale of the proposed dwelling,

in combination with the scale of the existing dwelling when extended and the resultant spacing between both plots would be tight with built form extending almost entirely across both plots, resulting in a cramped and overdeveloped appearance contrary to the spacious characteristic of the streetscene. This would be exacerbated by the fact that the two storey elements of both dwellings were sited in such close proximity to each other, contrary to the character of the streetscene, which although including development up to boundaries, is typically of single storey scale resulting in a more open and less intensively developed appearance.

To address these concerns revised plans were submitted removing the two storey side extension from the host dwelling and instead proposing a single storey side extension.

The proposed dwelling is detached, two storey, proposed to have a finish to match the existing dwelling and would maintain a moderately large individual plot, therefore it is considered to address the features and characteristics stated in the Design Statement. Each planning application is determined on a case-by-case basis and on its own merits, therefore it is considered that the proposal does not set a precedent. It is also considered that the proposal does not constitute overdevelopment, given that the site is capable of siting an additional dwelling whilst maintaining more than sufficient outdoor amenity space for both the existing and proposed dwelling, meet the minimum internal floorspace standards, and provide an adequate level of off-street parking, all of which matters are discussed later in this report. With the removal of the two storey side extension from the host dwelling, the spacious characteristic of the streetscene and the more traditional pattern of development including single storey elements extending to side boundaries will be retained.

Whilst the proposed site layout indicates landscaping details, including the retention of the side boundary hedge with no. 9 Tor Close and a new hedge subdividing the rear gardens, a planning condition is recommended prior to occupation to secure full details of the landscaping and its retention to ensure an acceptable visual appearance.

It is also considered reasonable to add a condition removing the permitted development rights for hardstanding and means of enclosure given the visual impact this could have on the proposed site within the context of the streetscene.

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

Subject to the aforementioned planning conditions, the proposal is considered to comply Policy DE1 of the Local Plan, Policies BH5 and BH6 of the Brixham Peninsula Neighbourhood Plan, the Broadsands Village Design Statement and the guidance contained in the NPPF.

The proposal is considered acceptable on the basis of the revised plans. It should be noted that planning application P/2021/0671 approved the formation of a two storey extension to the side of the host dwelling. It would not be possible to construct this side extension in combination with the proposed dwelling as there is overlap and a legal agreement/planning condition is therefore not considered necessary to ensure both schemes are not built out as this would be physically impossible.

3. Residential Amenity

The NPPF guides (Paragraph 130) that decisions should ensure that developments create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development proposals should be designed to ensure a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding uses. The Brixham Peninsula Neighbourhood Plan does not provide any requirements in terms of residential amenity.

Quality of living accommodation for future occupiers

The submitted plans indicate that the proposed dwelling would be four-bedrooms with six bed-spaces set over two-storeys. Policy DE3 of the Torbay Local Plan provides a table which sets out the minimum internal floor space standards for all new residential units. Table 23 of the Torbay Local Plan 2012-2030 sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standard which states for a four bedroom, six bed-space dwelling, set over two storeys, the dwelling should have the minimum gross internal floorspace area of 106 square metres. The submitted proposed floorplans, indicate that the new dwelling would have 123 square metres of internal floorspace. Therefore, it is considered that the proposal would comply with this criterion of Policy DE3 of the Local Plan.

Policy DE3 of the Local Plan also states that new dwellings should provide 55 square metres of outdoor amenity space. The proposed dwelling would have sufficient outdoor amenity space, whilst retaining an adequate amount for the existing dwelling. The proposed dwelling is considered to provide an adequate and suitable environment for future occupiers in terms of outlook and natural light levels.

Adjacent neighbouring amenity

Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers.

Objectors have raised concerns in terms of noise and privacy/overlooking. The proposed extensions and alterations to the existing dwelling are considered to be acceptable, given the single storey nature of the extensions, the separation distances between existing adjacent dwellings and the proposed dwelling and the existing and proposed boundary screening.

In respect of the proposed dwelling, the majority of openings at first floor level are on the front and rear of the dwelling, with one window on the south elevation facing no.9 Tor Close serving a landing and two windows on the north side elevation facing the host dwelling serving a bathroom and en-suite. A planning condition requiring these three windows to be obscure glazed and of a restricted opening is therefore recommended to ensure the relationship between the proposed and existing dwellings is acceptable.

No. 9 Tor Close features a first floor window on the side elevation facing the proposed dwelling. This appears to be obscure glazed and from the planning history of this dwelling is likely serving an en-suite. If this window was clear however, the relationship with the proposed dwelling would be considered acceptable given the offset orientation, and separation distance of approximately 7.2m from the window to the closest two storey element of the dwelling (at an angle).

Given there is a separation distance of approximately 18.3m from the rear first floor windows of the proposed dwelling to the side elevation of the dwelling and garden at the rear; 2 Broadsands Road and the first floor side elevation of this dwelling does not feature any openings, this relationship is considered to be acceptable.

Given the aforementioned planning conditions, it is considered that the proposal would not detrimentally overlook nor invade the privacy of adjacent neighbours.

A planning condition requiring the submission of a Construction Method Statement which will stipulate construction hours to protect the amenity of adjacent occupiers is recommended. This is required prior to commencement as it will confirm how the construction process will be managed. Given the siting and orientation of the development, it is considered that the proposals would not result in any detrimental impact in terms of loss of light or overbearing impact upon adjacent neighbours.

As a result of the siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of the occupants of neighbouring buildings in terms of their privacy, outlook, or access to natural light. Subject to the aforementioned planning conditions, the proposal is considered to accord with Policy DE3 of the Local Plan.

4. 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). It also furthers (Para 111) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

Policy TA1 of the Torbay Local Plan and advice contained within the NPPF principally seeks to develop a sustainable model of travel. This baseline aspiration is there to try and meet the travel needs of everyone, whilst also reducing the need for travel and thus the environment impact of movement from development.

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of

containers for waste and recycling. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy BH8 of the Brixham Peninsula Neighbourhood Plan states that all new development should comply with the relevant adopted standards.

The Council's Highways Engineer was consulted on the proposal and stated that the Highways Standing Advice applies. Objectors have raised concerns regarding parking, traffic and access. Policy TA3 of the Local Plan states that new dwellings should be served by two car parking spaces. The parking space size requirements are set out in Policy TA3 and Appendix F of the Local Plan with off-street parking spaces required to be a minimum of 4.8 metres x 2.4 metres, with spaces abutting the public highway requiring 3.2 metres width by 5.5 metres depth as a minimum, to prevent an obstruction to the public footway and/or public highway and other parking spaces. For a garage to count as a parking space a minimum size of 6 metres x 3.3 metres is required.

The proposed dwelling will be served by a space in front of the garage measuring approximately 6.7 metres x 3.3 metres and a space in front of the dwelling measuring 6.7 metres x 2.75 metres. Two full size parking spaces would therefore be provided at the front of the dwelling. The proposed garage would not count as a parking space given its internal dimensions of 5.5 metres x 3 metres but could be utilised for bin, bicycle and general storage.

The proposal will introduce a new access onto Tor Close which is a 30mph road. The Highways Standing Advice states that a visibility splay of 43 metres x 2.4 metres will be required. The Design and Access Statement notes that *Tor close is a residential Cul-de-Sac and whilst there are no posted speed signs given the width, closed nature and residential status a functioning speed limit of 20mph is used for considering visibility splays. This is shown on the proposed site plan. The drive opening width and visibility is consistent with most of the private drives on Tor Close.* A site plan with a visibility splay of 25 metres x 2.4 metres has been detailed however a larger visibility in line with the recommended 43 metres x 2.4 metres would be achievable in this location.

The proposed parking arrangement and new access onto Tor Close are considered to be acceptable. A planning condition is recommended to secure the parking provision prior to occupation of the new dwelling and for its retention thereafter.

Appendix F of the Local Plan states that new dwellings should provide 2 secure and covered bicycle spaces. There is considered to be sufficed space on site for the provision of bicycle storage and a planning condition is recommended to secure the details of the storage provision prior to occupation and its retention thereafter. Similarly, the proposal does not include an electric vehicle charging point, and it is recommended to secure this through a planning condition.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to

be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The proposed site layout does not indicate an area for bin storage however there is considered to be sufficient space within the curtilage. A planning condition is recommended to secure the details of the waste storage provision prior to occupation and its retention thereafter.

Subject to the aforementioned planning conditions, the proposal is considered to accord with Policies TA2, TA3, W1 and Appendix F of the Local Plan and Policy BH8 of the Brixham Peninsula Neighbourhood Plan.

5. Ecology, Biodiversity and Trees

Policy NC1 of the Torbay Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy SS8, particularly criterion 1, of the Local Plans states sites, species and habitats protected under European, or equivalent legislation will be protected from development. Development around the edge of the built up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1 of the Local Plan and particular attention must be paid to Greater Horseshoe Bat flightpaths. Policy E8 of the Brixham Peninsula Neighbourhood Plan states that internationally important sites and species will be protected. Development affecting internationally protected site and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to the NPPF and conforms to Policy NC1 of the Local Plan. Guidance within the NPPF provides similar guidance to the above and notably Para 180 guides that when determining planning applications, local planning authorities should apply principles that include opportunities to improve biodiversity in and around developments should be integrated as part of the design, especially where this can secure measurable net gains for biodiversity.

Objectors have raised concerns regarding trees and wildlife. The site is within Sustainance Zone and Landscape Connectivity Zone of the South Hams SAC for the greater horseshoe bat. The application is supported by a Bat and Nesting Bird Survey however this only considers works to the existing dwelling.

The report states no bats or signs of the presence of bats were found in the roof void or around the outside of the house. No 'bat-sized' gaps / potential roost locations were detected around the outside of the building.

The report also comments that no evidence of bird nesting activity was found in or around the outside of the house. Some potential nesting habitat was noted within the proposed development zone at the side of the house. Without mitigation, there is potential for the proposed development to disturb nesting birds.

No slow worms were found, but potential / favourable slow worm habitat was noted in the garden. The possible presence of slow worms has been assumed, and appropriate and proportionate mitigation measures recommended to minimise the risk of causing harm to animals.

There is a risk of disturbing breeding birds and their nests with tree, shrub and hedgerow removal during construction, therefore in order to avoid any potential impacts, it is recommended that vegetation should be removed outside of nesting bird season or with pre-works checks by an ecologist.

The ecology report also provides biodiversity net gain measures to the existing dwelling in the form of three swift boxes.

As the proposal will involve the removal of a small section of hedge to allow for the new access and clearance of parts of the site, a planning condition is recommended to ensure a 10% biodiversity net gain is achieved alongside adherence to the reconditions of the ecology report. It is also recommended that a condition requiring details of any external lighting to the new dwelling is added to ensure no harm to light sensitive species occurs.

As detailed in Local Plan Policy NC1, all developments that create recreational pressure upon the Berry Head Grassland must pay a contribution to mitigating the impact of increased visitor pressure. As set out in the report by Footprint Ecology (2014) the primary zone of influence is 5km driving distance, which is roughly equivalent to the Brixham Peninsula Neighbourhood Plan area/ Local Plan Policy SDB1. All residential, tourism, and other development likely to increase recreation pressure upon the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC will be required to make a financial contribution towards mitigating the impact. The Footprint Ecology report considers the pressures of development upon the Berry Head grassland and recommends mitigation measures (para 6.14 onwards). It was estimated that the cost of carrying out these mitigation works was £384,000 (£404,350 at 2019 prices). The Footprint Ecology report assessed that 44% of visits were from Brixham. Overall 42% of visitors were from local residents and 58% from tourists. This indicates a cost of £95 per new dwellings in the Brixham Peninsula is required towards management/reduction of impact on the Berry Head Grassland.

The agent has agreed to undertake a unilateral undertaking to secure the £95 payment.

Subject to the aforementioned planning condition and unilateral undertaking, the proposal is considered to accord with Policy NC1 of the Local Plan and Policy E8 of the Brixham Peninsula Neighbourhood Plan.

Policy C4 of the Local Plan states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role. Policy E7 of the Brixham Peninsula Neighbourhood Plan states that development should where-ever possible ensure the retention, integration or enhancement of local semi-natural, cultural, historic or man-made features and their

contribution to the special character, wildlife habitats and biodiversity of the Peninsula, such as Devon banks and dry-stone walls and gateposts.

The site does not include any protected trees and is not located within a Conservation Area. The Council's Green Infrastructure Manager has been consulted on the application and has noted that the development proposal will require clearance to facilitate the development. The Officer considers that the vegetation is of low quality and amenity and no objection is raised from an arboricultural perspective on the removal. It is recommended in line with the Officer's comments and as recommended above that a landscaping condition is added to ensure a good quality visual appearance and to help assimilate the development into its surroundings.

Subject to the aforementioned planning condition, the proposal is considered to accord with Policy C4 of the Local Plan and Policy E7 of the Brixham Peninsula Neighbourhood Plan.

6. Flood Risk and Drainage

The NPPF's key guidance (Para 167) is when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere, and where appropriate applications should be supported by a site-specific flood-risk assessment.

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

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment which states that surface water will be dealt with via infiltration using a soakaway or other sustainable drainage system. Given the nature of the proposal, the intended means of surface water drainage is considered acceptable having regard to the adopted Standing Advice and the Drainage Officer has confirmed he has no objection. Whilst South West Water have noted that the intention is to discharge to the public combined sewerage network and this is not acceptable, this is not the intention of the proposal and the proposed method of surface water drainage adheres to the drainage hierarchy.

Given the nature of the proposal, subject to the recommended planning condition to secure the intended means of surface water drainage, the proposal is considered to be in accordance with Policy ER1 of the Local Plan.

7. Low Carbon Development and Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks to minimise carbon emissions and the use of natural resources. Policy ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The Design and Access Statement notes that *the building envelop will be constructed*

using contemporary materials, insulation and double glazing, with insulation properties exceeding the minimum standards required by building regulations. Water using appliances within the proposed new dwelling will be compliant with the requirements of the current building regulations. It is proposed that the building will be constructed using an off-site closed panel timber frame system. The proposed construction will achieve significantly greater U-values than are required by building regulations and can achieve an air permeability rate coming close to passive house standards. These measures will ensure reduced energy use and greenhouse gas emissions.

The sustainability measures outlined above are considered reasonable and a condition to secure the measures outlined within the Design and Access Statement is recommended to ensure compliance with Policy. With the addition of this condition the development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

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

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. The development would see the use of area of garden for 1 additional dwelling. Once the development is occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwelling to be provided must carry significant weight in this balance.

The use of the site for housing would provide an appropriate use and offer 1 additional dwelling within a sustainable location. On balance, the social impacts of the development weigh in favour of the development.

The Environmental role

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

The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition. The proposal will include bicycle storage, and the proposed development is in a sustainable location within the existing urban area.

It is concluded that the environmental impacts of the development weigh positively within the planning balance.

Sustainability Conclusion

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

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

Affordable Housing:

Not applicable.

CIL:

The CIL liability for this development is Nil.

S106:

Due to the nature of the proposal (creation of one residential dwelling) and its location, a unilateral undertaking is required to be completed to secure the planning contributions required for the recreational impacts on the Berry Head calcareous grassland. A sum of £95 is required as set out in the Planning Contributions and Affordable Housing SPD. The agent has agreed to enter into a unilateral undertaking to secure the sum.

EIA/HRA

EIA:

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

HRA:

Not applicable.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

Conclusions and Reasons for Decision

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, flood risk, and ecological constraints. On balance, the proposed development is considered acceptable, having regard to the Torbay Local Plan, the Brixham Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Approval: Subject to;

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

The completion of a Unilateral undertaking legal agreement to secure £95 payment to mitigate the impact of additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point component of the South Hams SAC.

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.

Conditions

1. Construction Management Plan

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by,

the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: This information is required prior to the commencement of the development as it will confirm how the construction process will be managed in the interests of highway safety and local amenity in accordance with policies TA1, TA2, C4 and DE3 of the New Torbay Local Plan 2012-2030.

2. Flood Risk Assessment

In accordance with the submitted flood risk assessment dated 25th May 2022, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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 Adopted Torbay Local Plan 2012-2030 and the guidance contained within the NPPF.

3. Parking

The new dwelling hereby approved shall not be occupied or brought into use until the hardstanding parking area detailed on the approved plans have been provided. The hardstanding shall thereafter be retained for the use of parking for the associated dwelling for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy BH8 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

4. EV Charging Point

Prior to the occupation of the dwelling hereby approved, a scheme for the insertion of one electrical charging point to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The agreed electrical charging point shall be thereafter maintained and retained for the lifetime of the development.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Planning Policy TA1, TA3 and Appendix F of the Adopted Torbay Local Plan 2012-2030 and Policy BH8 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

5. Bicycle Storage

Prior to the first occupation of the new dwelling hereby approved, details of bicycle storage shall be submitted to and approved in writing by the Local Planning Authority and provided for the use of the dwelling. The bicycle storage shall be retained for the life of the development.

Reason: To ensure adequate bicycle storage facilities are provided to serve the development in accordance with Policies TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and in the interests of sustainability.

6. Bin Storage

Prior to the first occupation of the new dwelling hereby approved, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: To ensure adequate bicycle storage facilities are provided to serve the development in accordance with Policies DE1 and W1 of the Adopted Torbay Local Plan 2012-2030 and in the interests of sustainability.

7. Obscure Glazing/ Restricted Opening to First Floor Side Windows (new dwelling)

Prior to the first occupation of the new dwelling hereby approved, the first floor side windows serving a bathroom, en-suite and landing window on the north and south elevations shall be fitted with Pilkington level 4 (or an equivalent standard) obscured glazing over the entirety of the windows with no clear areas,. These windows shall be fixed shut unless opening parts are located higher than 1.7m above finished floor level or they are fitted with a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition for the lifetime of the development.

Reason: In the interests of privacy of the neighbouring properties, in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

8. Landscaping

Prior to the first occupation of the new dwelling hereby approved, full details of the hard and soft landscape works, including an implementation and management plan, shall be submitted to and approved in writing by the Local Planning Authority.

Details of soft landscape works shall include retention of any existing trees and hedges; finished levels/contours; planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants, noting species, plant sizes and proposed numbers/densities where appropriate. The hard landscape works shall include means of enclosure; boundary and surface treatments and vehicle and pedestrian/cyclist circulation.

All planting, seeding, turfing or hard surfacing comprised in the approved landscaping scheme shall be carried out by the end of the first planting and seeding seasons following the first occupation of the dwelling hereby approved or completion of the development, whichever is the sooner. Any trees or plants which within a period of five 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 similar size and species unless the Local Planning Authority gives written consent to any variation.

The approved landscaping scheme shall be carried out in its entirety and shall accord with the approved details and timetable. Any boundary treatments or means of enclosure shall be carried out and installed prior to the first occupation of the new dwelling.

Reason: In the interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy BH5 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

9. Ecology

No development shall occur beyond slab level of the new dwelling until a scheme to provide a 10% biodiversity net gain across the application site has been submitted to and approved in writing by the Local Planning Authority.

The recommendations and mitigation given in the 'Bat & Nesting Bird Survey' by Butler Ecology, shall be followed, including precautions to prevent threat of harm during construction works and timings of works.

The biodiversity net gain measures shall be installed/undertaken prior to first occupation of the new dwelling hereby approved and shall be retained thereafter.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy E8 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

10. Bird Nesting Season

No works, including 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 and made available to the Local Planning Authority upon request.

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan and guidance contained in the NPPF.

11. Lighting

Prior to the installation of any external lighting within the site of the new dwelling, full details including their design, siting and levels/type of illumination shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall thereafter be installed in full accordance with the approved details. No further external lighting shall be provided within the plot.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

12. Low Carbon

The construction of the new dwelling hereby approved shall be carried out in accordance with the details contained in section 8 of the 'Planning, Design and Access Statement'. All measures to limit carbon emissions shall be implemented prior to first occupation of the dwelling.

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

13. Removal of PD – Hardstanding and Means of Enclosure

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended) (and any Order revoking and re enacting this Order), no development of the types described in the following Classes of Schedule 2 shall be undertaken without the express consent in writing of the Local Planning Authority other than those expressly authorised by this permission:

- (a) Part 1, Class F (Hard surfaces)
- (b) Part 2, Class A (Gates, fences, walls etc)

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy BH5 of the Adopted Brixham Peninsula Neighbourhood Plan 2012-2030.

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
SS8 - Natural Environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 – Low carbon development and adaption to climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1 - Applications for new homes
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
ES1 – Energy
W1 - Waste management facilities
NC1 - Biodiversity and geodiversity
BH5 - Good design and the town and village Design Statements
BH6 - Roofscape and dormer management
BH7- Sustainable construction
BH8 - Access to new dwellings
E2 - Settlement boundaries
E8 - Internationally and nationally important ecological sites and species