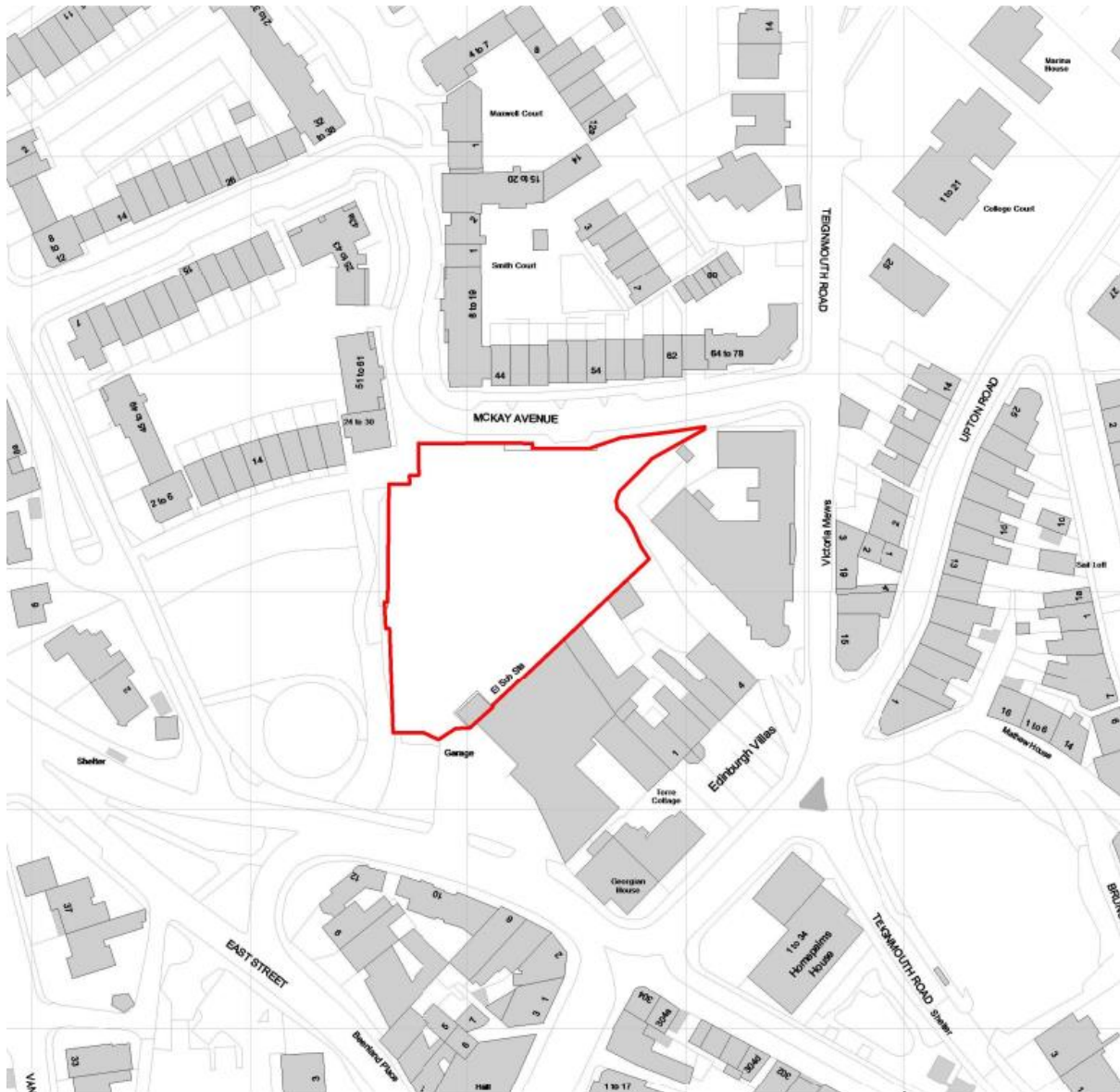


TORBAY COUNCIL

Application Site Address	Land at McKay Avenue, Torre
Proposal	Erection of 72 extra care apartments (use class C3) with parking, communal lounges, courtyard garden and cafe on ground floor.
Application Number	P/2022/0722
Applicant	TorVista Homes
Agent	ADG
Date Application Valid	28.07.2022
Decision Due date	27.10.2022
Extension of Time Date	14.11.2022
Recommendation	<p>Delegate authority to the Divisional Director - Planning, Housing & Climate Emergency to grant conditional approval subject to the conditions detailed below and satisfaction of the Engineering Service Manager with the updated hydraulic information.</p> <p>Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director - Planning, Housing & Climate Emergency.</p>
Reason for Referral to Planning Committee	Major Application and land owned by The Council.
Planning Case Officer	Jim Blackwell

Location Plan



Site Details

The site has remained vacant for over 15 years and originally formed part of wider South Devon College before it was redeveloped for housing.

In terms of site ownership, Torbay Council have approved the disposal of the site to TorVista Homes (TVH) and conditional contracts have been exchanged between both parties to enable the land to be transferred when appropriate. TVH is a subsidiary of TDA and was formed to target the delivery of new investment in Torbay to support the Council by stimulating the market and assist in the delivery of the objectives and outcomes identified within their Housing Strategy specifically in relation to affordable housing.

TVH obtained 'Registered Provider' (RP) status from the Regulator for Social Housing in 2021 which is a key component to ensure the organisation has strong governance structures in place and is financially viable.

To support the investment in new affordable housing supply, TVH will require public subsidy to deliver new projects and whilst some financial support may be provided by Torbay Council, the main funding source for RP's comes from Homes England. TVH has been granted Investment Partner status with Homes England which will enable bids to be submitted and approved in the 2021-2026 Affordable Homes Programme. Following discussions with Homes England this site will be subject to a formal bid for grant.

The site lies to the north of the Newton Road and to the south of the completed residential streets of Torre Marine, where there is an established access point from McKay Avenue. The listed terrace of Edinburgh Villas and the Kwik Fit building sit to the south east. An electricity substation lies south east of the site between the proposed building and Kwik Fit. A children's play area has been recently completed to the south west. Directly east is the building used by LiveWest, an affordable housing agency.

Torre local shopping area lies to the east with close access to sustainable transport including local bus routes and Torre Railway Station to the west. The site acts as a gateway to Torre and Torquay town centre in terms of its connectivity, prominence, and location. It is enclosed on three sides, but the southern side is highly visible from Newton Road and beyond.

This site was included in the original masterplan for Torre Marine and was to provide 61 sheltered units in a seven storey building with office floor-space and 42 car parking spaces. The site subsequently went through a range of planning applications in 2010, 2012 and 2016 which included various design evolutions, changes in scale, materials and type of residential use.

A previous owner commenced construction on site, however the development stalled due to difficulties in the market and as such, the site has remained vacant for several years. As the permission for the wider development has been implemented, the permission to construct the 61 sheltered units and office floor-space remains live in perpetuity and can be built out at any time.

The site is located within:

- Flood Zone 1.
- CIL Zone 2.
- Adjacent listed buildings grade II.
- Adjacent Tormohun and Torre Conservation Areas.

Description of Development

The application proposes the erection of 72 extra care apartments (Use Class C3) with parking, communal lounges, courtyard garden and cafe on ground floor. The full proposals include:

- A broadly L-shaped building orientated with the open area facing south east towards Torre.

- Due to the gently sloping topography, the building will vary in height from four storeys at the north facing on to McKay Avenue to seven storeys to the south facing Newton Road.
- The lower ground floor will include vehicular access from McKay Avenue with 20 parking spaces.
- The L-shape will be centred around a communal garden facing south east.
- The main pedestrian entrance will be from the west and fully accessible.
- A public café will occupy the southern ground floor corner.
- The ground floor will also include communal lounges, treatment rooms and core facilities such as waste storage, scooter spaces, staff office and a laundry.
- The building will be fully accessible with lifts and staircases.
- The elevational treatment utilises a range of facing materials including a range of brick styles and finishes, terracotta tiling, zinc and metal cladding with metal and glazed balconies.
- The upper floors will be 61, 1 bedroom apartments and 11, 2 bed apartments. The flats will be a mixture of wheelchair adaptable and accessible with 2 suitable for bariatric wheelchairs.

The table below sets out the full schedule of accommodation:

	1 bed, 2 people	2 beds, 3 people
Ground Floor	11	3
1st Floor	13	2
2nd Floor	13	2
3rd Floor	10	2
4th Floor	8	1
5th Floor	6	1
Totals	61	11

For clarity, extra care housing is self-contained and for residents with care and support needs. It is available to all age ranges and residents benefit from the facility being staffed 24/7. This extra care facility would have no age restriction, but all occupants will have a care and support need whether this is mental health or physical disability. The applicants expect a high proportion of residents to have some kind of mobility issue.

A range of additional and amended information has been provided:

- Secured by Design measures following comments from Devon and Cornwall Police.
- Reduced seventh floor facing Newton Road.
- Updated hydraulic information.

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 Torquay Neighbourhood Plan 2012-2030 (TNP)

Material Considerations:

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

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall 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. With regard to Conservation areas the Act requires that in considering this application, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Statement of Community Involvement

The Design and Access Statement (ADG) includes a section on public participation. Engagement has taken place with boards being displayed at Torquay and Paignton libraries, press releases and on-line information. 34 sets of responses were received, 27 people supported the scheme, 9 of which had reservations based on parking need in the area and the mass of the building.

Relevant Planning History

P/2005/0138: Redevelopment of South Devon College to provide 258 residential units, 61 Sheltered units and 1500 m² office floorspace. Approved: 30.09.05.

P/2007/0968: Amendments to the approved scheme comprising changes to balconies, fenestration and roof detail. Approved: 9.08.07.

P/2010/1389: Redevelopment to form 75 assisted living extra care units with associated communal and care facilities, car parking, landscaping and servicing. Approved: 29.09.2011.

P/2012/1264: Development of site comprising 25 Retirement Living Apartments and 50 Assisted Living Extra Care Apartments with associated parking, landscaping and servicing and communal and care facilities. Approved: 20.02.2013.

P/2016/1047: Major outline application for construction of new building to provide up to 75 one and two bedroom apartments. Approved: 17.11.2017.

Summary of Representations

There have been one letter of support and 10 objections to the scheme had been received at the time this report was drafted.

Support:

- Positive use of the current empty site.
- Provision of jobs in the future.
- Proposed parking.

The concerns (of planning merit) raised are summarised as follows:

- Limitations to the community engagement process.
- Design, height and materials proposed.
- Not in keeping with the local area.
- Privacy / overlooking.
- Under provision of car parking and impact on local streets.
- Sustainability credentials.

Summary of Consultation Responses

Torquay Neighbourhood Forum

No objection. However, Torquay Neighbourhood Forum (TNF) raised three concerns around the height of the building, parking provision given demand in the local area and echoed comments from Devon and Cornwall Police.

County Archaeologist and Historic Environment Manager

No objection. The Archaeologist agrees with the conclusions of the submitted desk-based assessment and Heritage Statement (Oakford Archaeology, March 2022), that there is low potential for archaeological evidence to be found at this site. No further archaeological work is therefore required.

Torbay Council's Engineering Service Manager

No objection subject to additional information on hydraulic calculations, a drawing showing the proposed surface water drainage and further information on green roofs.

Environment Agency

No response received – standing advice applies.

Police Designing Out Crime Officer

No objection subject to the use of condition to require details covering access controls, a roller shutter door at the site entrance and CCTV.

Food and Safety Team

No objection subject to resolving issues regarding WC provision, sizing, waste storage and emissions.

Environmental Health

No objection subject to the recommendations of the stage 1 acoustic review undertaken by SB Consulting being implemented prior to commencement of works.

Torbay Council's Highways Engineer

No objection. The applicant will be required to pay a contribution of £3,000 towards the installation of bollards to prevent footway parking along McKay Avenue.

Torbay Council Community Safety Team

No objection. The proposal of using a 'bin holding area' enabling vehicles to pull up outside to complete collections without driving on to unadopted highway is satisfactory, providing that there is adequate space for other vehicles to pass while we are collecting.

Senior Tree and Landscape Officer

No comments received.

Devon and Somerset Fire and Rescue Service

No objection subject to compliance with requirements for fire service vehicles.

South West Water

No objection.

Planning Officer Assessment

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 key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

1. Principle of Development.
2. Economic Benefits.
3. Design and Visual Impact.
4. Impact on Heritage Assets.
5. Impact on Residential Amenity.
6. Impact on Highway Safety.
7. Designing out Crime
8. Ecology and Biodiversity.
9. Drainage and Flood Risk.
10. Low Carbon Development.
11. Other Considerations.

1. Principle of Development

The site is a long-vacant, brownfield parcel of land located in an established urban area of Torquay relatively close to Torre, the town centre and various shops, services and transport options. It sits in an area where there is a strong character of both residential and commercial uses.

Policy H1 (Applications for new homes) of the Torbay Local Plan cites that proposals for new homes within the built up area will be supported subject to accordance with the other policies contained within the Local Plan. The site sits in the built up area.

Policy H2 (Affordable housing) of the Local Plan requires a development of this scale and on brownfield land to provide 20% affordable housing. The applicant has stated that the scheme

will be delivered as a 100% social, affordable scheme which is welcomed and is a significant public benefit.

Policy TS4 (Support for Brownfield and Greenfield development) of the Torquay Neighbourhood Plan cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. Other material considerations will be discussed in turn within the Officer Assessment, however the proposal is supported in principle.

Torquay Neighbourhood Plan includes the site within the Community Aspiration for Torre and Upton Community Partnership. The Plan supports delivery of housing on site providing a solution is found for any flooding issues.

In addition to the above, the Council cannot currently demonstrate a 3 or 5 year housing land supply, which is a relevant material consideration to the principle. For decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are considered to be out of date and therefore should be afforded limited weight within the current decision making process. The 'tilted balance' in favour of sustainable housing development therefore applies subject to the detail wording of the NPPF Para 11 and the associated footnotes. This principally means that for permission to be withheld either (a) the application of policies in the NPPF that protect areas or assets of particular importance (in this case heritage assets) provides a strong reason for restricting the overall scale, type or distribution of development or (b) harm would significantly and demonstrably outweigh benefits. This current context therefore increases the prospect of planning permission being granted because it 'tilts' the balance in favour of approving an application for housing.

Drawing together the policy landscape there is support for the provision of a residential use on the site. The policy support is clear within Policies TH1 and TS4 of the Torquay Neighbourhood Plan and the current shortfall in housing land supply strengthens this support. This position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the Officer Assessment below.

2. Economic Benefits

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort.

Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the Bay.

Policy SS11 (Sustainable communities) explains that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

The proposal will create jobs during the construction period. The proposed staff within the building and cafe will also support jobs. This would also generate a range of third party jobs and revenue such as food and drink suppliers, materials, care providers etc.

As discussed previously, Torbay cannot demonstrate a 3 or 5 year housing land supply, and therefore significant weight is given to the provision of additional housing. The application proposes 72 extra care apartments and would exceed Policy H2 of the Local Plan through the provision of 100% affordable units. The demonstrated economic benefits of new housing and the commercial use are a material factor in this respect.

Given that the proposal would create new jobs and is expected to generate additional spend within the local economy, it is considered that it complies with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan, and would bring economic benefits to the Bay.

3. Design and Visual Impact

The National Planning Policy Framework (2021) states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition, it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. New development should be sympathetic to local character and quality. Nationally achieving good design is a central thread within government guidance and Part 12 of the NPPF (Achieving well-designed places) offers key guidance. Paras 126, 127, 130, and 134 are particularly relevant and cumulatively guide that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 134 advises that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.

Policy DE1 (Design) of the Torbay 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 DE4 states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. New development should be constructed to the prevailing height within the character area in which it is located unless there are sound urban design or socio-economic benefits to justify a deviation from this approach.

The policy goes on to state that new buildings above the prevailing height will be supported where they:

- Enhance the vitality of an area.
- Contribute to the regeneration of Torbay.
- Strengthen the character of an area.
- Are appropriate in terms of their visual impact.
- Provide wider urban design or socio-economic benefits.
- Make a positive addition to the built form, townscape and surrounding landscape.
- Preserve or enhance local and long-distance view, and key vistas.

The acceptability of the proposed quantum and scale have been established through previous permissions which range between five to seven storeys. The architectural styles, massing and materials vary greatly in the previous permissions, but have the quantum of development appears to be set around 75 units. One clear feature of the previously approved schemes has been the stepping down of the buildings gradually towards Newton Road. This current proposal has been amended to include a cut away section, stepping back from Newton Road in order to reduce the massing and terminate the top floor effectively.

The proposed building would be approximately two storeys higher than the taller corner buildings opposite to the north on McKay Avenue. In the context of the immediate neighbouring properties and the wider area, it is clear that the prevailing building height is varied and is characterised by differing building heights located at a range of different ground levels, the proposal is not considered to be contrary to Policy DE4, or harmful to the local character. In any case, it is considered that the proposed building would meet the criteria listed above in terms of enhancing the vitality of the area, providing socio-economic benefits and contributing to the regeneration of Torbay.

Policy TH8 (Established architecture) of the Torquay Neighbourhood Plan cites that development should be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context. The key components of the assessment that inform this judgment are outlined below.

The site has a clear physical, functional and visual relationship with the existing residential development around Torre Marine. The proposed development would resolve the longstanding issue of how the site is currently presented. The gently sloping site towards Newton Road has been surrounded by security hoarding, concealing the hardstanding and scrub for many years. In terms of the detailed layout, the proposal presents a broadly L-shaped building which accommodates six storeys of residential apartments over parking, storage areas, operational facilities and a commercial unit on the ground floor. The sloping site means that the building plane continues with the final floor height reaching seven storeys. The southern tip of the building is chamfered at 45° due to the location of an electricity substation between it and Kwik Fit.

The open area of the L-shape faces south east and would include a landscaped, communal garden. The rationale for this approach to the built form is that a large scale, single institutional building is required, rather than traditional housing. The surrounding built form ranges between two to four storeys in height with five storeys in the local area towards Torre. The proposal would represent a new architectural type in the form of a standalone, self-contained structure. The full mass of the proposal is most visible from the west elevation facing the play area, with the termination of the building on to Newton Road.

In terms of visual impact, the plot is considered capable of holding a large building in the location and to the scale proposed, and the use of distinct built elements, a stepped approach responding to surrounding buildings and topography, setbacks and balconies are considered a positive response to simplify the overall mass. In terms of the basic layout

there is sufficient space around the buildings to provide adequate landscaping, softening and present and acceptable setting for the development, that would hence not cramp or over-develop site.

The detailed design and materials aim to offer longevity and low maintenance and as such brick is proposed rather than render. Although render is a local material typical to Torbay, it suffers from degradation and discolouration particularly at higher levels. The lower levels of the building will therefore use textured terracotta and brick with the entrances having ceramic or porcelain tiles. There are a range of materials for the main facades including brick or glass reinforced concrete cladding. Vertical standing seam zinc is proposed for the upper storeys. The glazing will be uPVC with glazed, non-climb balconies. The lower levels will include full height glazing at street level and for the commercial units. Overall, the composition of the scheme using interconnected elements, differentiated by a range of materials is supported.

It is noted that the Neighbourhood Forum consider the proposal to be a better design quality than the previously approved plans and note the row of terraced house are in an appropriate scale to compliment Penny's Cottage and the row of Victorian houses opposite. Heritage matters are dealt with later on in this report.

Legibility of the space around the buildings has been a critical consideration. The buildings use several key points to reference points of arrival. The architectural form provides key corner features facing on to Newton Road and on to McKay Avenue and several internally within the site. There are also three key spaces with the semi-private courtyard available for social activity and is bounded by accessible walkways and shared facilities. Distinct, legible pedestrian access will be provided with hard and soft landscaping around the site.

There have been a number of objections around the design of the proposal which have been described as 'not in keeping with the local area'. Objections about the proposals impact, height and overdevelopment. However, the proposal has been through a rigorous design process and evolved in response to comments from the community and Officers. The form and layout of both are considered to make effective use of brownfield land and respond well to the topography of the site. The development would result in a major enhancement of the site given its current condition.

In terms of design and visual impact for these reasons above the development is considered acceptable as there would be no adverse impact upon the character or visual amenities of the locality. The proposal is deemed in broad accordance with Policies DE1, DE4, SS10 and H1 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and guidance contained within the NPPF in terms of good design.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form appear to respond effectively to the topography of the site. Given the proposal's siting, scale, and design, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or street scene.

Subject to the use of conditions to secure the use of high quality materials; landscaping, boundary treatment and balcony details it is considered that the proposal is in accordance with Policies DE1, DE4, and SS11 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

4. Impact on Heritage Assets

The titled balance requires an assessment of the NPPF policies that protect heritage assets. NPPF (2021) provides guidance as to when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 200). It guides 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 including, where appropriate, securing its optimum viable use (Para 202).

In terms of the Local Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan). This is aligned with the duties for decisions as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

A Heritage Statement (Oakford Archaeology, dated 22.03.2022) has been submitted with the application. The proposed site is located immediately to the north and northwest of three Grade II Listed 19th century buildings, Brunswick Court and Edinburgh Villas, and therefore due consideration has been given to the impact of the proposed development on the setting of these assets.

The earliest local properties are the adjacent rows of Grade II Listed 1840's terraced houses known as Brunswick Court and Edinburgh Villas. The setting of these is mainly from Upton Road. The views from Brunswick Court towards the proposed development site are interrupted by the modern industrial unit, while the rear of Edinburgh Villas is directly visible from the current site entrance. The setting of the property to the rear therefore forms a small part of the building's significance.

The site lies within a parcel of land on the edge of two Conservation Areas with Torre to the south with its boundary running east west along Newton Road. Tormohun Conservation Area envelopes Edinburgh Villas to the east and continues around to Newton Road and into East Street. The boundary also runs east of the site past McKay Avenue towards Teignmouth Road.

The buildings will utilise flat roofs retaining a relatively low profile to allow the development to blend into the existing modern townscape to the north. The location of the buildings against the western and northern edge of the proposal area allows for the introduction of green

space and landscaping along the southern edge. This will help to filter views of the proposed site from the south and south east. Although the upper storeys of the proposed development will be visible from the rear of Edinburgh Villas to the south, and while it is acknowledged that the proposed development will provide an additional intrusive element to the setting of heritage asset, given the combination of existing mixed architectural streetscape, distance, set-back nature of the proposal and tree filtering, the impact of the proposed development upon the former Edinburgh Villas is considered to be low to moderate. The limited harm is less than substantial and is outweighed by the public benefits of the proposal which include bringing the vacant site back into use and providing much needed affordable housing.

The site is outside, but adjacent to two conservation areas and so regard has been had to the desirability of preserving or enhancing the conservation areas and the effect of the development on the setting or views. The new development will contribute to the local character and distinctiveness of the area, particularly through a high quality of design, use of appropriate materials, and occupation of the vacant site. The limited harm is less than substantial and is outweighed by the public benefits of the proposal discussed previously.

In principle, the regeneration and redevelopment of this site is supported. Conditions are suggested to ensure that materials and design details are agreed in advance of the commencement of works.

The Devon Archaeologist agrees with the conclusions of the submitted Desk-based assessment and Heritage Statement (Oakford Archaeology, dated 22.03.2022), that there is low potential for archaeological evidence to be found at this site. No further archaeological work is therefore required.

It is considered that the proposal causes less than substantial harm to the setting of listed buildings in the vicinity and the setting of two Conservation Areas. This is outweighed by the public benefits of the proposal. As such the development is in accordance with Local Plan Policies SS10, HE1 and Policy TH10 of the Torquay Neighbourhood Plan.

This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses.

5. Impact on Residential Amenity

The NPPF guides (Para 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.

Quality of living accommodation for future occupiers

Policy DE3 of the Local Plan requires that new residential provides a good level of amenity and that units provide adequate floor space to achieve a pleasant and healthy environment.

The Neighbourhood Plan is largely silent on the matter of amenity but does cite expectations for outdoor amenity space. Policy DE3 sets out guidelines for minimum floor space standards for new dwellings and apartments, which reflect the Government's National Space Standards.

Two bed apartments with two double bedrooms should have an internal area of at least 70sqm with 2sqm of additional storage and one bed (two person) apartments should be at least 50sqm with 1.5m of storage. The proposal seeks to provide 11x 2-bed apartments generally sized between 74-77sqm, and 61x 1-bed apartments at 54-68sqm. All apartments are considered to provide an acceptable scale of living accommodation with floor areas exceeding the prescribed standards. In addition to the size of the space the quality of the space should be considered, in terms of how it is positively influenced by natural light levels and outlooks. In this regard all apartments provide a good level of both light and outlook with adequately sized windows to all key spaces and suitable open outlooks.

Amenity Space

Policy DE3 also seeks secure the provision of usable outdoor amenity space where apartments should deliver 10sqm per unit either individually or communally. The Torquay Neighbourhood Plan is in alignment with this guidance as advised within Policy THW4, either as balconies or communal space. The majority of accommodation is arranged around shared garden space and balconies. There is also communal lounge with the ability to open out into this outdoor space. A roof top garden has been included on level 4 which would be fully accessible from each floor. The proposal accumulatively exceeds the policy-guided minimum of 480sqm, which provides an acceptable level of outdoor space for future occupants of the apartments.

HAPPI recommendations submitted as part of the application demonstrate the proposal meet the established criteria. The HAPPI principles are based on ten key design criteria. Many are recognisable from good design generally - good light, ventilation, room to move around and good storage - but they have particular relevance to the spectrum of older persons' housing which needs to both offer an attractive alternative to the family home and be able to adapt over time to meet changing needs.

Waste

In terms of key ancillary elements Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage of waste. Communal bin storage areas have been provided within the building with access from McKay Avenue. The proposed bin storage facilities are considered acceptable and compliant with Policy W1.

Noise

In order to ascertain the noise levels the proposed development would be exposed to, external ambient noise monitoring was undertaken at accessible locations on the development site. Based upon the findings of this Stage 1 Acoustic Review (by SB Consulting and ANC dated 12.05.2022), the proposed development is very likely to achieve comfortable living conditions providing the dwellings overlooking McKay Avenue and Newton Road are subject to good acoustic design.

Considering the various aspects that influence a good living environment development is considered to provide a good standard of living accommodation for future occupiers, in accordance with policy guidance, notably Policy DE3 of the Torbay Local Plan and Policy THW4 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

Adjacent neighbouring amenity

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

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through positively managing the process through a Construction Method Statement. Compliance can be secured through a suggested planning condition.

In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance. The creation of a small commercial use is likely to be positive.

Concerns have been expressed by residents about the impact that a building of this size will have on their amenity, principally through the loss of light and views. Whilst the addition of a large building will present some loss of general outlook and light in terms of the properties to the north, there is an extant permission to a similar scale which can be built out at any time, which is a material consideration. The properties to the north are shown to be round 16.5m away (15m to the edge of the balconies), which is similar to the established street pattern in the area where properties face each other, often with balconies. To the west, the termination of Richardson Walk is in close proximity to the proposal and this is considered acceptable for the reason above. Again, the presence of the extant scheme is a material consideration in terms of the impact upon these properties. To the east and south the relationships are less sensitive and amenity impacts from loss of light, outlook and privacy do not appear demonstrable.

In terms of scale and height there is unlikely to be any loss of outlook or light to the north as adjacent residential properties are set away across the public road. The sensitivity is further reduced by the setting back of upper floors.

Café

The Food and Safety Team have no objection subject to appropriate detailing of WC provision, sizing, waste storage and emissions. A condition has been suggested to ensure details are provided.

Lighting

The external Lighting Impact Assessment (Hulley and Kirkwood Consulting Engineers Ltd March 2022) has been carried out to ensure that there is limited light spill arising from the proposed development to confirm that there is no adverse effect on the adjacent properties and ecology. The assessment compares the illumination emitted from the new car park, perimeter, green space lighting and roof terrace areas. low light levels have been achieved by ensuring the areas are not over lit, and utilising quality luminaires with controlled light throw.

All bollards and columns have been orientated so as to minimise light spill on the adjacent and nearby boundaries.

The construction phase will have some temporary impacts however, such impacts are not unusual and can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. The retention of adequate access during construction phase to the various uses in and around the site should be duly protected through consideration of the Construction Management Plan.

In terms of amenity for the reasons above the proposal is considered to comply with Policy DE3 of the Torbay Local Plan and advice contained within the NPPF, as it would present good quality living environments and would not unduly impact the amenities afforded neighbouring occupiers.

6. Movement, Highways 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; and c) 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.

The site is centrally located just north of Torquay Town Centre and sits in an established urban environment characterised by residential properties and commercial activities. As a centrally located brownfield site it is considered a good location for residential development, and one that could meet the travel needs for occupiers equally, not just car owners, whilst also presenting options for sustainable modes of local travel for all. The development of the site for housing presents a basis for development that accords with the broad policy direction for sustainable travel patterns.

Policy TA2 of the Torbay Local Plan states that all development 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. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided. The Torquay Neighbourhood Plan is largely silent on access and highway matters beyond guiding that, to encourage use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate (Policy THW5).

Richardson Walk and the associated amenity area on the western boundary of the application site does not form part of adopted highway and is not owned by the Council. The route is an established public right of way, through usage and site boundary is consistent with the previous applications. The applicant and Strategic Transport Team are aware that this needs to be secured for the lifetime of the development.

Vehicular access to the site will be retained via the existing access from McKay Avenue which is as the previously approved and is therefore considered acceptable.

Car parking has long been a contentious issue in the area, which has been exhibited by the level of concern noted in the public representations on this point. It is therefore one of the key issues to consider. The site is in a relatively central location with good access to facilities and sustainable transport infrastructure (bus routes, Upton Coach Park and Torre Train Station all being in close proximity to the site). This would normally provide a context where the level of parking provision could be considered more flexibly if necessary.

In order to prevent footway parking, and subsequent blocking of pedestrian accesses, the applicant will be required to fund the use of bollards at a cost of £3,000. This is to ensure that safe and suitable pedestrian access to/from the site can be achieved by all users particularly those on mobility scooters.

The Car and Cycle Parking standards in Appendix F of the Torbay Local Plan identifies that for sheltered flats, a requirement of one space per five units should be provided, which equates to a requirement of 15 spaces. The standards also state that provision should be made for mobility scooters with electric charging points in a covered and secure area.

The proposal includes 20 undercroft car parking spaces located along the northern edge of the site. This includes four wheelchair accessible spaces and four electric vehicle charging points. Three spaces will be reserved for staff with visitor parking being available in the Brunswick Car Park located 150m away to the east on Teignmouth Road. The car park entrance will also be utilised as an ambulance drop off and collection area. There are also 25 mobility scooter spaces with charging points located integrally within the western edge of the building. These spaces will be accessed through a door adjacent to the main pedestrian entrance.

Refuse collection will occur via McKay Avenue which is considered acceptable. The applicant has submitted a swept path analysis to illustrate a large car and a fire engine accessing the site which is also considered acceptable.

The applicant has undertaken a trip generation exercise which demonstrates that the small quantum of trips generated, and the extant use of the site, it is considered that the proposed development will result in a negligible impact upon the operation and capacity of the local highway network.

The applicant has prepared a Travel Plan (structureHaus 20.07.2022) for the proposed development to reduce reliance on single occupancy car trips and to promote a modal shift towards walking, cycling and public transport. The applicant has noted that, whilst the

impacts of the Travel Plan may be limited for residents, it will have benefits for staff, visitors and the wider community.

Subject to securing the necessary bollards on the footway of McKay Avenue the proposal presents an acceptable access and movement linkages with the public highway network. A condition has been suggested to ensure the submitted Travel Plan is delivered and to ensure that other forms of transport are duly promoted.

Considering the broad accordance with the Development Plan and advice contained within the NPPF the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA1, TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF.

7. Designing out Crime

No objections were raised although Devon and Cornwall Police were concerned about the lack of submitted Secured by Design information. This was rectified during the life of the application. A condition has been suggested to deliver these recommendations and subject to its use, the proposal is in accordance with Policy SS11 of the Local Plan.

8. Ecology and Biodiversity

Policy TE5 of The Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

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. 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. Policy C4 of the Torbay Local Plan seek the retention of trees and other natural features.

The site comprises a former commercial site with concrete hardstanding, vegetation in places, rainwater pools and an earth bank. The site is positioned in a highly urban location surrounded by roads and streetlighting. Therefore, in terms of ecology the site has limited value in terms of flora and fauna.

The site lies approximately 1.2km from the Lyme Bay and Torbay Special Area of Conservation (SAC) and the Torbay Marine Conservation Zone (MCZ). No mitigation is required with regards to statutory nature conservation sites given the distance, lack of recreational pressures and subject to suggested conditions requiring a CEMP and LEMP.

In terms of biodiversity, in-line with Local Plan Policy NC1 and guidance contained in the NPPF, measures to enhance biodiversity have been duly considered. However, the submitted ecology report is absent on biodiversity enhancement measures. Considering this a planning condition has therefore been suggested requiring bat roost features, full soft

landscaping details and long term management to be submitted to and approved in writing to ensure that biodiversity interests are promoted through the development.

Policy C4 of the Torbay Local Plan cites that development will not be supported when it would seriously harm either directly or indirectly, protected or veteran trees, subject to offsetting measures etc. There are no formally protected trees on or adjacent to the site. However, the ecology report does include details of invasive species which will be removed as part of the scheme.

In light of the conclusions above the development is considered aligned with the aims and objectives of Policies NC1 and C4 of the Torbay Local Plan, Policy TE5 of The Torquay Neighbourhood Plan, and guidance contained within the NPPF.

9. Drainage and Flood Risk

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. It further states that development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that: a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location; b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment; c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate; d) any residual risk can be safely managed; and e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

The site has been allocated for housing within the Torquay Neighbourhood Plan which has undertaken the process of public scrutiny and is an adopted document that forms part of the Development Plan. As such, the sequential test does not need to be satisfied as part of the application process and the key tests are the developments flood resilience and safety and whether it would increase the risk of flooding elsewhere. The site lies within Flood Zone 1 which also negates the need for a sequential test.

The application site lies within the wider Torbay Critical Drainage Area (CDA) as designated by the Environment Agency and hence a rigorous surface water disposal strategy is required in order to ensure that this brownfield site achieves reduced rates of surface water run-off.

In terms of flood risk and resilience the position and heights of the residential units have been set to respond to the potential risk of flooding. The residential units are on the upper floors over parking, storage areas, operational facilities and a commercial unit and will not be impacted by flooding. There are also mitigation measures regarding the build fabric proposed including attenuation crates in the proposed communal garden and green roofs.

The Environment Agency has not commented and standard advice applies. South West Water raise no objection to the proposed scheme and its drainage solution.

The Engineering Service Manager has reviewed the Flood Risk Assessment and Drainage Strategy (structureHaus May 2022) and raised concern that the proposal requires further hydraulic information to be submitted. An addendum to the Flood Risk Assessment was submitted on 31.10.2022 and the Council's Drainage Engineer has been consulted. The outcome of this response will be reported verbally at the meeting.

Subject to confirmation from the Engineering Service Manager, the proposal is deemed acceptable on flood risk and surface water drainage grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the NPPF.

10. Low Carbon Development

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development 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 submitted Energy Statement includes three options set out below:

Passive Options

- Increased thermal insulation
- Low air infiltration losses
- Maximise the use of natural ventilation

Good Practice Energy Saving Technologies

- Inverter driven motors, for variable power output matched to actual usage (not on/off)
- Water flowrate regulation
- Lighting controls incorporating presence linking
- Low energy LED lamp technology
- Comprehensive sub-metering facilities

Low Zero Carbon/ Renewable Technologies

- Air Source Heat Pump(s) for heating and hot water
- Photovoltaic Panels (PVs) with size to be confirmed at detailed design stages
- Future provision for district heating connection

Extensive green roof coverings have also been introduced this will help reduce thermal radiation penetrating the built form. This also has a positive effect on the surrounding town scape and provide a surface that is not a thermal store helping cool the surrounding environment. A condition is suggested to require detail to evolve and provide certainty on design elements for low carbon development.

The development is, for the reasons above, considered suitable for approval subject to satisfactory condition to secure the measures outlined within the applications Energy Statement. The development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

11. Other Considerations

The Council is unable to demonstrate a 3 or 5 year supply of deliverable housing land. The 5 year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the current housing supply position, it is advised that in determining the application, the tilted balance is in favour of sustainable development as set out in Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to be in conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused the application of policies in the NPPF that protect areas or assets of particular importance (in this case heritage assets) provides a strong reason for restricting the overall scale, type or distribution of development or where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

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.

Once the units were 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 would also be an economic benefit through the generation and long term need for care jobs to support the residential use.

The proposal provides an active frontage with the café. 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, which are intended to be 100% affordable housing for older people and people with specialist housing needs. Given the NPPF priority to significantly boost the supply of housing, in particular affordable housing, the additional dwellings to be provided must carry significant weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that the proposal does not cause significant harm to residential amenity.

On balance, the social impacts of the development weigh strongly in favour of the development.

The Environmental role

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

The proposed development is in a sustainable location with a range of public transportation links. It is considered a high quality redevelopment of a brownfield site, minimising the impact on the setting of the conservation areas and street scene and introducing sustainable building methods. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

Sustainability Conclusion

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

Local Finance Considerations

Community Infrastructure Levy

The residential aspect of the site is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm. An exemption applies for affordable housing. An informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

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

In view of the nature of the application there is not likely to be a Significant Effect on the Annex I habitats - alone or in-combination with other proposals or projects.

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 and regeneration of a long standing empty site. Applying the tilted balance, the heritage policies in the NPPF do not provide a strong reason for refusing development and the benefits of the development outweigh any harm.

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.

Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant. The Council works with applicants/agents in a positive and proactive manner by:

- offering a pre-application advice service,
- as appropriate updating applications/agents of any issues that may arise in the processing of their application and where possible suggesting solutions.

Conclusions and Reasons for Decision

The proposal would result in the enhancement of the current vacant parcel of land and creation of additional housing on an underutilised brownfield site within a Core Tourism Investment Area. It is considered that the proposal would deliver visual, economic, and regeneration benefits and none of the harm identified is considered sufficient to outweigh these benefits.

The proposal is acceptable in principle as a major enhancement to the site, with a minimal impact on the setting of Torre Conservation Area Tormohun Conservation Area. It is also considered that while there would be limited harm to the setting of listed buildings this is strongly outweighed by the public benefit of the provision of much needed additional housing on brownfield land and overall enhancements of the site.

It would provide acceptable arrangement in relation to residential amenity, highways and flood risk. The proposals are in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Delegate authority to the Divisional Director - Planning, Housing & Climate Emergency to grant conditional approval subject to the conditions detailed below and satisfaction of the Engineering Service Manager with the updated hydraulic information.

Final drafting of conditions, negotiation/completion of the legal agreement, and addressing any further material considerations that may come to light following Planning Committee, to also be delegated to the Divisional Director - Planning, Housing & Climate Emergency.

Conditions

1. Construction Management Plan

Prior to the commencement of development a Construction Management Plan shall be submitted to approved in writing by the Local Planning Authority. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of construction traffic, noise and dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:

08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays subject to specified exceptions.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.
- Details of construction traffic and vehicle management
- Details of the storage of materials, plant and equipment and;
- Location and details of any construction workers compound, facilities building

Development shall take place in strict accordance with the approved plan.

Reason

To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies NC1 and TA1 of the Torbay Local Plan 2012-2030.

This condition needs to be a pre-commencement condition to ensure the impacts of the development are mitigated from the beginning of the development.

2. Landscape and Ecological Management Plan

The development hereby approved shall be carried out and managed in strict accordance with a Landscape and Ecological Management Plan which shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of development. It will include details of relating to habitat protection and creation, species specification and management and be adhered to and implemented throughout the construction period strictly

in accordance with the approved details and the development managed in accordance with the approved LEMP for its lifetime.

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 2012-2030 and guidance contained in the NPPF.

This needs to be a pre-commencement condition to ensure biodiversity is safeguarded from the onset of construction activity.

3. FRA / Drainage

The development shall be carried out in accordance with the submitted Flood Risk Assessment ref. no. 05200E - FRAA by structureHaus (submitted 31.10.2022) and the flood resistance resilience and mitigation measures it details.

The flood resistance resilience and mitigation measures shall be fully implemented prior to occupation of the building and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

The approved surface water drainage scheme shall be implemented in full prior to the first occupation of the development.

Reason

To ensure that there will be no significant increase in the quantity or change in the quality of water leaving the Site. To reduce the risk of flooding to the proposed development and future occupants and to ensure safe access and egress from the development during an extreme flood event, in the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

4. Ecology - Nesting season

The removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged and a buffer zone of at least 5 metres must be established around the nest and an effective barrier put in place to ensure this remains undisturbed

Reason

To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the NPPF.

5. Ecology – Biodiversity Enhancement

Prior to the first use of the development measures to maximise opportunities for biodiversity enhancement in and around development, in order to deliver a 44% net gain for biodiversity as set out in the Biodiversity Net Gain Plan ref. no. WOR-2779. BNG (dated April 2022), shall be submitted to and approved in writing by the Local Planning Authority. The submitted detail

will recognise ecological features lost and include a measurable guide to demonstrate a net gain for biodiversity.

The approved measures shall be incorporated within the development prior to the developments first use unless an alternative phasing is agreed pursuant to this condition and maintained thereafter.

Reason

To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

6. Landscaping Plan

Notwithstanding the submitted landscaping details, prior to the first occupation of the residential properties hereby approved details of all proposed hard and soft landscaping including the biodiverse garden shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within four weeks of the development being brought into use and shall be retained for the life of the development.

Reason

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

7. Communal Garden

Prior to the first use of the residential units hereby approved, full details of the communal garden shall be submitted to and approved in writing by the Local Planning Authority. These details shall include dimensions and materials of the external surfaces, seating, planters and lighting. The areas shall be installed as approved prior to the use of the residential units. The areas shall thereafter be retained and maintained as an accessible area for the residents and shall not be used for any other purpose.

Reason

In the interests of design and in order to accord with Policy DE1 and DE3 of the Torbay Local Plan 2012-2030, TH8 of Torquay Neighbourhood Plan and the NPPF.

8. Detailed design

Prior to installation details of all external materials shall be submitted to and approved in writing by the Local Planning Authority including, but not limited to:

1. A sample of the proposed tile, brickwork and cladding.
2. Window and door materials, colours and profiles showing sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors; reveal sections, drawn to a scale of 1:1-1:10; and sill sections, drawn to a scale of 1:1-1:10.
3. Details of all fencing and other mains of enclosures including balconies.

4. Rainwater goods.
5. Details of eaves and fascia.

The development shall proceed in full accordance with the approved detail and shall be retained as such for the lifetime of the development.

Reason

In order to protect visual character and heritage assets in accordance with Policies C2, DE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policies TH8 and TH10 of Torquay Neighbourhood Plan and advice contained within the NPPF.

9. Travel Plan

The development shall be carried out in accordance with the submitted Travel Plan by structureHaus ref. no. 05200E B – TP (received 26.07.2022) and the mitigation measures it details. It shall be implemented prior to the first occupation of the building and maintained at all times thereafter as a working document and strategy for the lifetime of the development.

Reason

In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030, and Policy THW1 of the Torquay Neighbourhood Plan.

10. Energy

The development shall proceed in accordance with the energy saving measures outlined within the submitted and approved Energy Statement by Hulley & Kirkwood Consulting Engineers Ltd (submitted 20 June 2022). The approved measures shall be fully incorporated within the scheme prior to its first use and shall be retained and maintained for the lifetime of the development.

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

11. Designing Out Crime

A scheme detailing security measures and how designing out crime, fear of crime and anti-social behaviour have been considered and where implemented for the proposed development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of a monitored CCTV system and that a clear passport to compliance document will be put in place prior to installation to ensure that the system is fit for purpose. The scheme shall also include details of an external lighting plan relating to the public realm and associated areas. Development shall take place in accordance with the approved details and shall be fully implemented prior to the occupation of the building(s) to which it relates. The scheme shall be retained and maintained for the lifetime of the development.

Reason

To ensure the safety and security of persons and property and to minimise opportunity for crime, fear of crime and antisocial behaviour. In accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030.

12. Waste Management Plan

A Waste Management Plan shall be submitted and approved in writing by the Local Planning Authority in writing prior to the occupation of any proposed building. The development shall thereafter be operated in accordance with the approved details.

Reason

In interests of visual amenity and in accordance with Policy DE1 and DE3 of the Torbay Local Plan 2012-2030.

13. Implementation of bicycle, scooter and refuse storage

Prior to the first occupation of any unit(s) hereby approved, the bicycle, scooter and refuse storage facilities shown on the approved plans that relate to that unit shall be provided and made available for use for those units. Once provided, storage arrangements shall be retained and maintained for the life of the development.

Reason

In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan 2012-2030.

14. Car Parking Management Plan

Prior to the occupation of the development hereby approved, a Car Parking Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details of car parking allocation including details of staff and visitor parking. The approved car parking management plan shall be adhered to for the lifetime of the development.

Reason

In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

15. Electric Charging Points

Prior to the first occupation of the residential development hereby permitted details of electric vehicle charging points (EVCPs) shall be submitted and agreed in writing by the Local Planning Authority. The EVCPs shall be provided in accordance with the approved details prior to first occupation and retained thereafter.

Reason

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

16. No plant on roof

No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, tanks, satellite dishes and external lighting.

Reason

In the interests of the visual amenities of the area, in accordance with policies DE1, DE3 and SS10 of the Torbay Local Plan 2012-2030.

17. Class E consent

The commercial unit hereby approved shall be used only for purposes falling within Use Class E (a) and (b) of The Town and Country Planning (Use Classes) Order, 1987 (as amended) or in any provisions equivalent to those Classes in any Statutory Instrument revoking and re-enacting that Order and for no other purpose without the prior grant of planning permission.

Reason: To ensure that the development is compatible with surrounding uses. In order to accord with Policies TC2, TC3 and TC4 of the Torbay Local Plan 2012-2030.

18. PD removal

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

Reason

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

19. Affordable housing

At all times not less than 20% of the residential units hereby approved shall be occupied (or where vacant) available for occupation as affordable housing for rent as defined in the Glossary to the NPPF (July 2021). Thereafter the affordable units shall remain as such in perpetuity. The affordable units shall be provided in accordance with details submitted to and agreed by the Council's Affordable Housing Manager and shall be constructed at least in accordance with the minimum quality and design standards set by Homes England.

Reason

In accordance with Policy H2 of the Torbay Local Plan 2012-2030.

20. Extraction equipment

Prior to the installation of the following in the development hereby permitted, details (including manufacturer's specifications, colour, materials and appearance, measures for odour and noise control) shall be submitted to and agreed in writing by the Local Planning Authority:

- a) any external flues or vents to the kitchen ventilation and
- b) odour control equipment
- c) external plant/machinery/extraction equipment

These features shall be installed in accordance with the approved details and maintained retained thereafter.

Reason

To ensure a satisfactory form of development in the Torquay Harbour Conservation Area and in the interest of residential amenity, in accordance with Policies DE1, DE3 and SS10 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.

21. Amplified Sound

No amplified sound shall be generated at any time from the commercial unit hereby approved.

Reason

To safeguard the residential amenities of occupiers of nearby properties in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

22. Acoustic Review

The development shall be carried out in accordance with the submitted Stage 1 Acoustic Review by (by SB Consulting and ANC dated 12.05.2022) and the mitigation measures it details. It shall be implemented prior to the first occupation of the building and maintained at all times thereafter as a working document and strategy for the lifetime of the development.

Reason

To safeguard the residential amenities of occupiers of nearby properties in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

23. Hours of opening

The use of the ground floor café hereby approved shall take place only between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and Saturdays, and between the hours of 9:00am and 5:00pm on Sundays or Bank Holidays. No customers shall be on the premises outside of these hours.

Reason

In the interests of the amenities of the neighbouring occupiers and the locality in accordance with Policies TC5 and DE3 of the Torbay Local Plan 2012-2030.

Informative(s)

1. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority. The applicant will be required to pay a contribution of £3,000 towards the installation of bollards to prevent footway parking along McKay Avenue.

2. 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.

3. Responsibilities of the applicant / developer:

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which

are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

Relevant Policies

Local Plan

Policy TO1 Tourism, Events and Culture
Policy TO2 Change of Use of Tourism Accommodation and Facilities
Policy TO3 Marine Economy
Policy SS1 Growth Strategy for a prosperous Torbay
Policy SS2 Future Growth Areas
Policy SS3 Presumption in Favour of Sustainable Development
Policy SS4 The Economy and Employment
Policy SS8 Natural Environment
Policy SS9 Green Infrastructure
Policy SS10 Conservation and the Historic Environment
Policy SS11 Sustainable Communities
Policy SS12 Housing
Policy TC5 Evening Economy
Policy TA1 Transport and Accessibility
Policy TA2 Development Accessibility
Policy TA3 Parking Requirements
Policy C2 The Coastal Landscape
Policy C3 Coastal Change Management
Policy C4 Trees, Hedgerows and Natural Landscape Features
Policy NC1 Biodiversity
Policy H1 New Homes
Policy DE1 Design
Policy DE3 Development Amenity
Policy DE4 Building Heights
Policy ER1 Flood Risk
Policy ER2 Water Management
Policy SDT1 Torquay
Policy SDT2 Torquay Town Centre and Harbour

Torquay Neighbourhood Plan 2019

TS1 Sustainable Development
TS3 Community led planning
TS4 Brownfield Development
TH2 Designing Out Crime
TH5 Sustainable Later Life Homes

TH8 Established Architecture
TH9 Parking Facilities
TH10 Protection of the Built Environment
TT1 Change of Use within a CTIA
TT2 Change of Use in Conservation Areas
TE1 Tourism Accommodation on Brownfield Sites
TE5 Protected Species Habitats and Biodiversity
TE7 Marine Management Planning
THW1 Travel Plans
THW4 Outside Space Provision
THW5 Access to Sustainable Transport
THW6 Cycle Storage and Changing Facilities