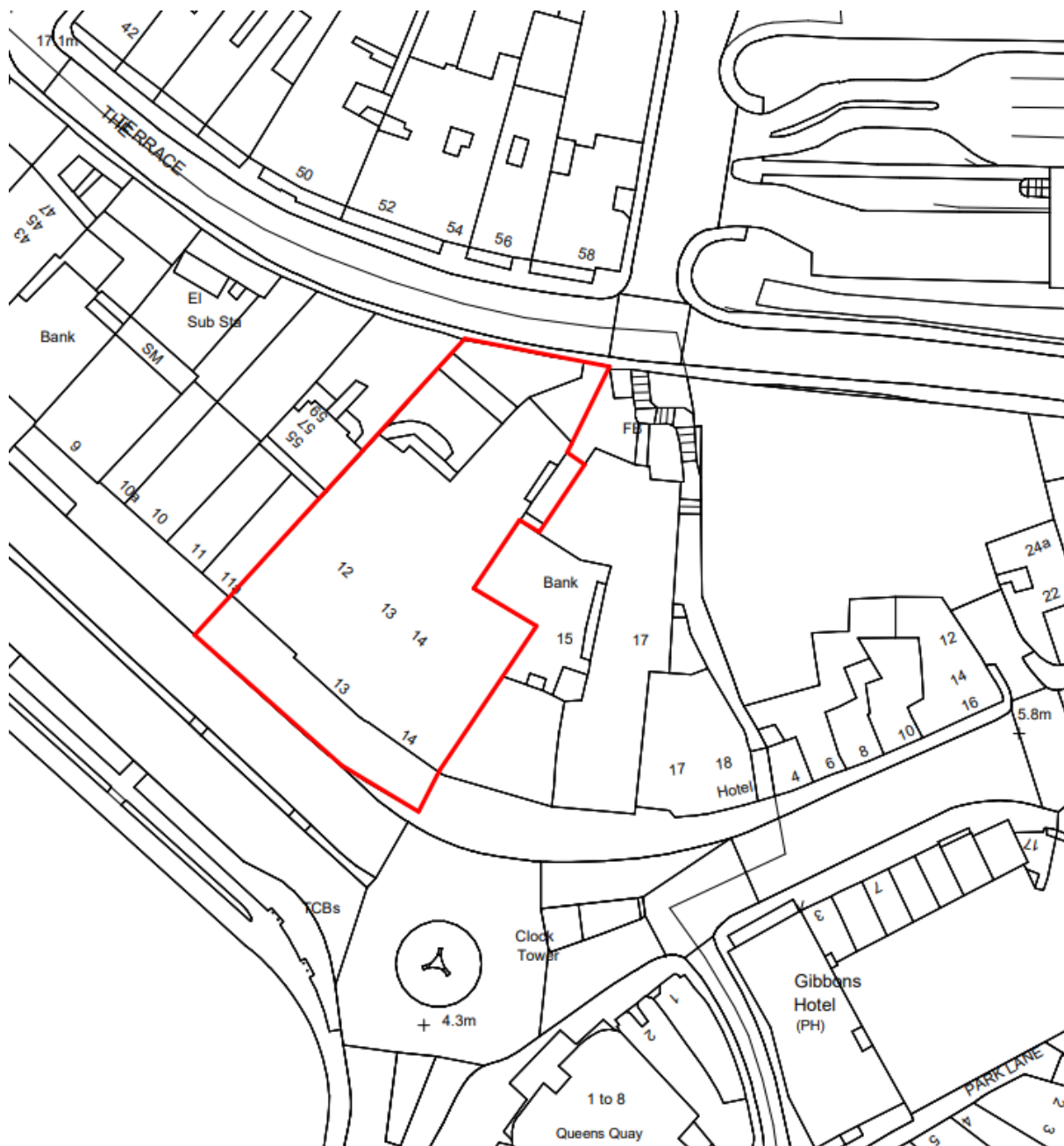


# TORBAY COUNCIL

Application Site Address	Former Debenhams Department Store, 12 - 14 The Strand, Torquay
Proposal	Redevelopment of the former Debenhams department store for a mixed-use, including 5 commercial, business and service units (Use Class E), 16 two bedroom residential apartments (Use Class C3), residents parking court and public square.
Application Number	P/2022/0806
Applicant	AR Land & Planning Ltd (on behalf of TDA)
Agent	AR Land & Planning Ltd
Date Application Valid	22.07.2022
Decision Due date	21.10.2022
Extension of Time Date	14.11.2022
Recommendation	<p>Delegate authority to the Divisional Director - Planning, Housing &amp; Climate Emergency to grant conditional approval subject to the conditions detailed below and subject to the Council commitment to the off-site affordable housing contribution being confirmed to the satisfaction of the Divisional Director - Planning, Housing &amp; Climate Emergency.</p> <p>Final drafting of conditions and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director - Planning, Housing &amp; Climate Emergency.</p>
Reason for Referral to Planning Committee	Major Application
Planning Case Officer	Jim Blackwell

## Location Plan



## Site Details

The TDA acquired the Debenhams Department Store site in May 2020 with the aim of rejuvenating The Strand through the redevelopment of the site linked to the proposed major public realm enhancements. This project is at an advanced stage and the intention is to create a pedestrian focused space, reduce the highway widths, increase footways, improve crossing facilities and relocate the buses from outside the Debenhams store. The wider, south facing footway will be able to offer an opportunity for outdoor eating and drinking.

The Debenhams site comprises a range of buildings situated to the north of The Strand, a wide street with a range of retail units, public houses and restaurants. It is attached to a two

storey retail unit and three storey apartment building (55-59 The Terrace) set back from the street frontage to the west. Yates, a three storey public house, adjoins to the east. The site is separated from harbourside from The Strand which currently acts as one of the main bus stops for the town centre and harbour area. The Strand includes a range of highway landscaping with seating facing the water's edge. The site steps up approximately 15m to the north towards The Terrace, a street with a mix of professional, commercial and residential properties.

The existing range of buildings comprises of three distinct facades with no.12 and 13 dating from 1960's and no. 14 from the late 19<sup>th</sup> century. Each block reflects the original 19<sup>th</sup> century plot widths. The elevations and main retail frontage facing The Strand are between two to three storeys high with the building stepping up to six storeys (relative to The Strand) along The Terrace. All three buildings are clad in a limestone material with glazed shopfronts and entrances below.

The layout is mostly open plan retail floor space with the main public entrance at The Strand level with a secondary public and service access at The Terrace level.

The canopy to the front of the site dates (in its current form) from around the 1920s – 30s with mid and later 20<sup>th</sup> century alterations. It replaced an earlier fabric canopy which was supported on free standing columns. Alterations have included the removal of decorative arched signage, its extension at the front of 12 The Strand and the modernisation of the roof covering.

The site is located within:

- Torquay Harbour Conservation Area (THCA).
- Coastal Change Management Area.
- Community Investment Area.
- Core Tourism Investment Area.
- The designated 'Town Centre' under the Torbay Local Plan.
- Primary Shopping Frontage.
- Edge of Flood Zones 3 and 2 associated with flood risk from the various sources including the sea and fluvial/surface water.
- CIL Zone 1.
- In close proximity to a wide range of grade II, II\* listed buildings and a grade I listed church.

### **Description of Development**

The application proposes the complete demolition of the former Debenhams department store and its replacement with:

- A broadly L-shaped, five storey building set around a public square. The change of level mean that the ground floor access is from The Strand, with access to the upper floor from The Terrace.
- Five commercial, business and service units (Use Class E) on the ground floor, at The Strand level. One of which will be a kiosk to on the western boundary.
- A public square accessed by steps and a pedestrian ramp and includes a range of hard and soft landscaping.

- The upper four storeys will be formed of 16, 2 bedroom residential units.
- The building at The Terrace level will include the site entrance, 16 covered parking spaces on a deck.
- Due to the topography the building will appear at a single storey at this level.

A range of additional information has been provided:

- Noise and vibration report.
- Amended Design and Access Statement to include further detail on the canopy posts and proposed public art.
- Clarity on transport data and confirmation of fire vehicle manoeuvrability.
- Secured by design checklist.
- Amended access ramp gradient.
- Amended landscape plan to show additional cycle parking for the commercial units.
- Further clarity on drainage details.
- Secure by Design updated 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 application is supported by a Statement of Community Involvement by AR Land & Planning Ltd (submitted 08.07.2022) which sets out the sequence of engagement with the community, Historic England and Torbay Design Review Panel. Further engagement

included the Torquay Town Centre Partnership, Torquay Neighbourhood Plan Forum, Members, officers, consultation letters to adjacent residents, display boards in Torquay library, a public exhibition on 28.04.2022, social media and the local press were all utilised to gain feedback. The on-line exhibition was held on 26.04.2022 and held for 10 days. The results of the responses were received with 92% supporting town centre regeneration and 72% liking what was proposed.

### **Relevant Planning History**

P/2022/0637 - Request for Screening Opinion for redevelopment of former Debenhams store to five ground floor commercial units and sixteen residential apartments. EIA not required.

### **Summary of Representations**

There have been approximately 4 objections to the scheme had been received at the time this report was drafted. The concerns (of planning merit) raised are summarised as follows:

- Impact on local area including impact on existing late night uses.
- Not in keeping with local area.
- Architectural treatment and use of materials.
- Over development.
- Overall height.
- Loss of the canopy.
- Impact on heritage assets.
- Potential use of the public square for antisocial behaviour.
- Potential impact on the residential units from noise and vibration.

Torbay Heritage Trust has also submitted approximately 13 comments and objections broadly covering the themes as follows:

- Impact on heritage assets.
- The proposals not recognising the height, materials or local characteristics.
- Impact on roofscapes and rooflines.
- Loss of the canopy.
- Not using a scheme model to identify impacts.
- Modern architectural approach.
- Challenge to the findings of the supporting information including the Planning Statement, Heritage Statement and Design and Access Statement.
- Future demand for the proposed retail units.
- Challenge to comments provided by Historic England.

### **Summary of Consultation Responses**

#### **Torquay Neighbourhood Forum:**

No objection. Torquay Neighbourhood Forum noted the heritage considerations linked to the canopy and building height impact, but were satisfied with the Historic England comments. Commented on links between the future public realm scheme, quality and potential for Anti-Social Behaviour (ASB). Potential impact of flood risk, but noted the proposed levels on site. They also raised issues around the potential loss of retail and lack of on-site affordable housing.

**County Archaeologist and Historic Environment Manager:**

No objection subject to a pre-commencement condition requiring a Written Scheme of Investigation.

**Natural England:**

No comments received.

**Torbay Council's Engineering Service Manager:**

No objection subject to additional information confirming materials and pipe length.

**South West Water:**

No objection providing the applicant can demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable.

**Environment Agency:**

No objection to the application as submitted provided that conditions are included within any permission granted to secure the inclusion of flood resistance and resilience measures within the development and a Construction Environment Management Plan (CEMP).

**Marine Management Organisation:**

No comment.

**Police Designing Out Crime Officer:**

No objection. The application lacked detail around the crime prevention and security measures. A number of detailed measures were suggested and updated information provided by the applicant.

**Torbay Council's Highways Engineer:**

No objection subject to the provision of a plan showing a visibility splay to The Terrace and further highway data. The cycle parking for the residential element of the scheme is acceptable however there needs to be provision for employee parking for the commercial uses at one space per two employees.

**Torbay Council Community Safety Team:**

No objection subject to alteration to the ramp gradient to 1:14. Challenging to understand demands for waste without the final operators being determined.

**Green Infrastructure Manager:**

No comments received.

**Devon and Somerset Fire and Rescue Service:**

No objection subject to compliance with requirements for fire vehicle access and manoeuvrability.

**Food and Safety Team:**

No objection subject to resolving issues regarding waste storage and emissions. A condition is suggested requiring further details of extract equipment.

**Waste Client Officer:**

No objection subject to revision of the gradient to 1:14 to enable waste collection.

**Historic England:**

No objection. Historic England considers that plans to redevelop the Debenhams site indicate a positive and proactive approach by Torbay Council in bringing forward regeneration in Torquay's historic core. Whilst the introduction of a courtyard / set back varies the historic pattern of development along the Strand, and the height of the buildings is greater than those currently in situ, they consider that the resulting low level of harm should be balanced against the regenerative benefits of the development.

**Torbay Design Review Panel:**

The TDRP was held on 22.03.2022. Comments are set out in brief below:

- Generally, recognising the importance of building lines, building heights, façade treatment, ornamentation and expression, colour.
- Impact of the proposal on The Terrace. Views into the site from this upper level.
- The challenge of the raised floor level and accessibility via the ramp.
- Support the residential access from The Strand and The Terrace.
- Challenge the need for car parking at this number and level.
- Unconvinced by the mansard roof design.
- The future quality of the public realm, it's composition, planting and link to adjoining buildings.
- The need to respond to the climate emergency.

**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 and Impact on the Night-Time Economy
3. Design and Visual Impact
4. Impact on Heritage Assets
5. Impact on Residential Amenity
6. Highways, Parking and Movement
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 vacant Debenhams department store is a brownfield site located in an established urban area, centrally located in the town centre alongside various shops, services and associated transport options. It also sits in a corridor where there is a strong character of

both commercial and residential uses.

Policy H1 (Applications for new homes) of the Torbay Local Plan states 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 TS4 (Support for Brownfield and Greenfield development) of the Torquay Neighbourhood Plan states 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 in terms of principle, there is support for the development.

Torquay Neighbourhood Plan includes an aspiration for 'improvement of this key stretch of Torquay Harbour which could include redevelopment of The Strand buildings, including Debenhams and the Amusement Arcade. Combination of luxury apartments, improved retail, hotel, small restaurants would be welcomed whilst protecting outlook from the Terrace.' It is considered that this proposal achieves this aspiration.

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.

Policy TH4 of the Torquay Neighbourhood Plan allows for affordable housing to be achieved in sequentially preferable order for:

- on site provision,
- a mix of on-site and off-site provision,
- via commuted payments.

The Planning Contributions and Affordable Housing SPD also allows for the provision of 'alternative sites or land'. The Local Plan states that commuted sums can be a fall back where on-site provision is not practicable.

The application proposes 16 open market apartments and does not provide any on-site affordable housing. Policy H2 of the Local Plan seeks 15% affordable housing provided on site unless the scheme brings regeneration benefits in which case commuted payments towards off-site provision may be acceptable. The demonstrated economic benefits of removing the existing building, creation of five high quality commercial units, combined with



the positive impact to the conservation area are a material factor. It has therefore been accepted the site and proposed units are not suitable for on-site affordable housing.

Finding a mechanism that delivers successful regeneration of this key site is considered a high priority. The circumstances above make on-site provision of affordable housing impractical. A commuted payment is considered the optimum way of securing off-site provision. The policy framework clearly allows for off-site provision in lieu of on-site and a total requirement for contributions is set at £259,200.

Normally this would be secured by a Section 106 or planning condition, however legal advice is that (a) as the council own the land the council cannot have a Section 106 agreement with itself and (b) guidance states that a planning condition should not be used to require a financial payment to be made. However, the development is to be delivered by the TDA on behalf of Torbay Council and Officers are advised by the Council's legal team that we can rely on the Council's commitment to provide the Affordable Housing contribution prior to occupation of the ninth apartment as the basis for issuing consent.

If the Council decides to sell the land for development, it will be necessary to secure the contribution through the sale contract (with potentially a Section 106 being entered into with the new owners immediately following the sale). The legal advice is that this arrangement is not unusual when a council sells land with the benefit of planning permission. However, it is emphasised that this is not envisaged and that the Council's commitment to providing the contribution in connection with a development it is carrying out, is sufficient at this stage.

Torquay Neighbourhood Forum have commented that it is regrettable that there is no on-site affordable housing, however it is clear that provision is not appropriate and can be achieved through off-site contributions.

Finally, the proposal involves continuation of the Use Class E which includes a range of potential uses. The description of development includes commercial, business and service units which would seem to offer flexibility at ground floor level with the aim of improving the vitality in the town centre. It is clear that not all uses would be appropriate in this location. The supported Class E purposes have been specified by a suggested condition to ensure complete control over the final occupation.

Drawing together the range of policies, there is support for the provision of a residential and commercial 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 forthcoming sections of the Officer Assessment.

## **2. Economic Benefits and Impact on the Night-Time Economy**

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. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism and catering.

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 application is supported by an Economic Impact Assessment. The proposal will create around 92 jobs during the expected 18 month construction period. It expects to contribute around £19.9m towards the local and regional economy during the construction phase. The commercial uses will support around 30 FTE jobs and contribute around £16.3m towards the local economy over a 25 year period. This would also generate a range of third party jobs and revenue such as food and drink suppliers, materials and furnishing suppliers which will all take advantage of new facilities.

In a further aspect related to economic impact, the operators of the Yates public house (15-16 The Strand) have made a representation to the application. The venue shares a common side boundary and has a customer terrace on the footway on The Strand which was granted approval in 2019. It has no planning restriction on the hours of operation but is likely to be controlled through licencing. The key economic issue relates to the noise and disturbance to future residents from the existing, authorised entertainment venue. Potential, future complaints could lead to licensing restrictions on Yates and other local late night venues which could harm profitability and viability. As a result, a noise and vibration report has been produced to support the application. The findings of the report conclude that the noise from Yates is likely to have a 'negligible' impact on living conditions to the rear bedrooms and a 'medium' risk to the bedrooms to the front of the building adjoining The Strand. On this basis, should the application be approved a condition is recommended to require the submission of a Stage 2 Acoustic Report and details showing an appropriate level of acoustic measures. In conclusion, subject to the proposed condition it is not considered that the proposed residential use will undermine the economic viability of existing local businesses (see further consideration in Section 5 Impact on Residential Amenity below).

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 16 open market homes and does not provide any on-site affordable housing. Policy H2 of the Local Plan seeks 15% affordable housing provided on site unless the scheme brings regeneration benefits. The economic benefits of the new commercial uses, public square, combined with the positive impact to the conservation area are a material factor. In any respect, it has been accepted the site and development type are not suitable for on-site affordable housing. An off-site affordable housing contribution in accordance with the Planning Contributions and Affordable Housing SPD is being provided.

Given that the proposal would modernise and enhance the commercial facilities available at the site; create new jobs; and is expected to generate significant 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**

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 accumulatively 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.

Policy TH8 (Established architecture) of the Torquay Neighbourhood Plan states 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.

The topography, urban and historical contexts are complex, each has individual constraints and especially when taken as a whole. 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 development has been informed by early pre-application engagement with the Torbay Design Review Panel and Historic England. Both provided a range of comments which led to design revisions including:

- Reducing the overall height by one storey.
- Lighter weight top storey and providing an alternative to a previously proposed mansard roof.
- Improved biodiversity by using a green roof, rather than a proposed penthouse level.

- Further visual landscape impact analysis.
- Improved landscaping.
- Simplification of the arrival and circulation of the apartments.
- Refined elevations and recessed elements.
- Reduction in the number of brick colours.
- Inclusion of increased opportunity for shelter and retractable awnings.

The proposed layout is created by four distinct built elements. Firstly, a five storey building on the boundary of The Strand with commercial on the ground floor and residential above. A secondary five storey building is then set back from The Strand with commercial on the ground floor with residential above. This creates an 'L' shape block which is centred around the third element of the scheme, an area of landscaped public space. Further along the edge of the site at The Strand, a 'kiosk' is proposed as an extension to the existing two storey cottages. The final built element is the parking court which is accessed from The Terrace at the top end of the site.

In terms of visual impact, the plot is considered capable of holding a range of buildings in the location and to the scale proposed, and the provision of the lower scale kiosk extending the existing cottages is deemed a positive response to the greater local prominence of this end. In terms of the basic layout there is sufficient space around the buildings and within the development site to provide adequate landscaping and present an acceptable setting for the development, that would not cramp or overdevelop the site.

The scale of the proposed buildings has been drawn through a range of early options and have been revised following consultation comments. The element facing The Strand now respects the character of the harbourside, recognises the various heights and narrow plot widths. The public realm space offers an area of transition down in scale to the proposed kiosk and existing cottages. The Terrace level will be separated from the street and buildings by the covered car park with a stone boundary wall and planting. The proposed buildings will appear as a single storey, which is a reduction from two following the previous heritage and design comments.

The proposed front facing building aims to provide a distinct level of grandeur and links to the neighbouring Yates public house. It follows the architectural hierarchy and form of many other harbourside buildings. The proposal includes a plinth storey at street level with cantilevered wrap around terrace above to create a defined band and provide weather protection to the unit below. A middle storey utilises double height vertical windows with projecting balcony details. A recessed top floor is proposed to create depth and concealed balcony. The roof is set back with change of materials to offer a sense that the building diminishes in scale at the upper level and to reduce the massing.

The internal Strand elevation focuses on narrow plot widths and reflects harbourside proportions with a range of architectural treatments. The kiosk will extend the existing 19<sup>th</sup> century cottages, including a traditional built form, but provide some more modern detailing such as large windows.

There are a clear range of proposed detailing and materials which again attempt to reinforce the traditional harbourside rhythms and robustness given the location. A mixture of brick (inspired by Victorian retaining walls on the site) and aluminium cladding (inspired by archways from the original Art Nouveau bookshop) are proposed. The kiosk will draw along the existing render and slate pitched roof. This simple palette, which has been refined during the application process, is supported.

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 and overdevelopment. However, the proposal has been through a rigorous design process and evolved in response to comments from the community, Historic England, Torbay Design Review Panel and Officers. The form and layout of both are considered to make effective use of brownfield land and respond well to the challenging topography of the site. The development would result in a major enhancement of a site which includes many dated and tired structures.

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.

#### **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.

There are a number of Grade II listed buildings within close proximity of the site. The closest includes Maples, 16 The Strand with a brick and terracotta shopfront façade. Maples is separated from the site by Yates public house, the former Nat West Bank, 15 The Strand. Although unlisted, it is within the Torquay Harbour Conservation Area Appraisal and indicated as 'Other key buildings and building groups of architectural importance or which

make a significant contribution to the townscape'. The building is therefore considered a non-designated heritage asset. The Clock Tower is positioned within the highway and Royal Bank of Scotland. Higher Terrace and attached front railings are above the site to the north. A terrace of listed buildings lies approximately 100m, at right angles to the site to the west on Vaughn Parade. Grade I Listed Building Parish Church of St. John the Evangelist lies 300m north east of the site.

The site lies within Torquay Harbour Conservation Area. This covers the land adjacent to Torquay Harbour which is surrounded on all sides with the Belgravia and Abbey Road Conservation Areas to the west and the Warberries and Lincombes Conservation Areas to the east.

The application is supported by an Archaeological Assessment and Statement of Heritage Significance (Avalon) which has identified limited potential for archaeological evidence from the prehistoric to early modern eras to be exposed by groundworks. The impact of development upon this should be mitigated by a programme of archaeological work that should record any archaeological evidence that will otherwise be exposed and destroyed by groundworks. As such, a pre-commencement condition requiring a Written Scheme of Investigation has been suggested by the County Archaeologist.

The submitted Townscape and Visual Impact Assessment (Liz Lake Associates) and Statement of Heritage Significance provide multiple photographs and analysis which demonstrate an understanding of the site, its surroundings and impact. The Debenhams Department Store is not a designated heritage asset and it is considered to have very limited architectural or heritage value. That said, the varying building heights and form broadly reflect other buildings in the area. The existing building heights along The Strand and harbourside create a comfortable character which is recognised as an important feature of the Conservation Area. There are a range of heights including low cottages to the taller and more grand buildings and this variety reflects the incremental changes to Torquay harbourside and surroundings over time.

The Terrace behind the site to the north dominates many views across the harbour given its scale, architectural style and rendered white façade. The Terrace and other buildings built around the harbour respond to the topography of Torquay, creating terraces of buildings that step up the slope, creating tiered views within the harbour area. These views have high value within the Conservation Area. These buildings have been designed to follow the topography and harbourside position, offering views out towards the sea. These views and openness will be maintained. The increased height of the front block of the development will result in a localised effect on the view from Victoria Parade looking north towards the site. In this view the proposed building obscures part of the east end of Higher Terrace and therefore interrupts the effect of its façade. However, the stepped back façade will increase visibility of the central portion of Higher Terrace. This localised view is considered to be at the very low end of less than substantial harm and is balanced against the much wider improvements to the site through the proposed development.

The integration of the proposed scheme into the existing townscape and key buildings has been carefully considered. In particular, the junction between the proposed front building and Yates public house has gone through a number of design evolutions in order to retain the

continuous horizontal emphasis, echo the choice of robust materials, follow similar proportions and diminish in height. Given its siting, scale, and design, it is considered that the scheme would have an acceptable impact upon the character and appearance of the adjoining building and would adequately preserve the historic character and setting of the non-designated heritage assets.

The Strand has very strong, linear character with shops fronting the footway which is replicated above along The Terrace. The proposed set-back square would enable a greater number of apartments to have views to the harbour and gain good level of natural light. It also provides opportunities to soften the impact of the increased ground floor height (as required by the Environment Agency) by using steps and slopes into the site. Historic England consider that this set-back will generate some minor levels of harm to the character and development pattern of the conservation area along The Strand. However, this harm is weighed against the regeneration and quality of the replacement buildings that the redevelopment of the site brings forward, alongside the associated public benefits.

The proposed public square has been designed to integrate with the proposed public realm on The Strand. It would also create a south facing piece of bespoke open space surrounded by new cafes and restaurants. It is expected to make a positive contribution to vibrant cafe culture, reflecting the character of the harbourside. It would also provide a sensitive transition from the domestic scale cottages to the larger surrounding buildings and proposed building. Overall, it is considered to be a public benefit.

The canopy to the front of the Debenhams building is considered in the Torquay Harbour Conservation Area appraisal to make a positive contribution to the townscape. It has long been part of the debate and discussion throughout the design and consultation process. The current canopy clearly holds value within the community and continues to provide shelter for those waiting for buses on The Strand. The proposed public realm works aim to relocate buses and this use will no longer continue. The canopy has been altered and adapted over many years and is not listed, but certainly has some local interest. As discussed, it does not relate well to the existing Debenhams building and it would be very difficult to reincorporate it within the new scheme without it appearing as a distinct and separate 'add on'. Historic England has no objection to the removal of the canopy and welcome the designed canopy that will form a part of the new building and new square.

In summary, the proposed development has incorporated mitigation measures to reduce the effects on both townscape character and visual amenity, and to help integrate the development into the surrounding townscape. These include sympathetic materials for the cladding and architectural treatment, the proportions of each element have been fully considered and assimilate into the neighbouring properties to ensure the proposed built form is in keeping with the surroundings.

Torbay Heritage Trust have provided a range of comments covering the impact and architectural approach of the development. The comments have been fully considered above. Historic England has no objection on heritage grounds subject to conditions ensuring a high level of detail and materials.

Overall, the proposal is considered to preserve and enhance the Harbour Conservation Area and setting of listed buildings although it is recognised that some elements cause a low level of harm. This limited harm is 'less than substantial' and is outweighed by the public benefits of the proposal which are the regeneration of the site, vastly improving the quality of buildings, improving the commercial offer, provision of housing and an integrated public square. 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**

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.

The proposal seeks to provide 16, 2 bedroom apartments generally sized between 80.4sqm to 114.9sqm, with 2sqm of additional storage. 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. Policy DE3 also seeks 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 scheme provides balconies which provides an acceptable level of outdoor space for future occupants of the apartments.

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.

#### Noise and vibration investigations

The NPPF (Para 130) guides 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. Para 187 requires decisions to ensure that new development can be integrated effectively with existing businesses and community facilities (including pubs and music venues). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established.

It is considered that the proposed noise sensitive residential accommodation would need to be constructed to meet the highest levels of amenity protection. As above, the policy context seeks to ensure appropriate living amenity is secured for future occupants of the proposed residential accommodation.

As discussed previously in Section 2 (Economic Benefits and Impact on the Night-Time Economy) representations have been received from the adjoining Yates public house. To provide further clarity, the venue operates between 09:00-23:00 on Sundays, 09:00-24:00 (midnight) on Mondays and Tuesdays, 09:00-03:00 on Wednesdays, Fridays and Saturdays, and 09:00-01:00 on Thursdays. The building has a capacity of 750 with space for around 25 customers to the terrace.

A Stage 1 Acoustic Review has been submitted to consider the residential use alongside the existing late night leisure use immediately adjoining the application site, and whether this will give rise to unacceptable conditions for future residents. The outcome of the report is that dwellings proposed on the north of the site facing The Strand are within the 'medium risk' category. Those to the rear are within the 'negligible risk' category. The data shows that there is a high number of disturbance events throughout the night, particularly on Friday and Saturdays.

The report recommends that bedrooms should either not overlook the front of the building or additional noise mitigation measures are provided. It goes on to say, the acoustic performance of the separating wall between the Yates Bar and the new development should be carefully considered and exceed the minimum levels prescribed in Part E of the Building Regulations. It is clear that particular attention must be paid to any bedrooms overlooking the front elevation to ensure comfortable internal night time environments can be achieved, guarding against potential sleep disturbance from the frequent occurrence of night time noise events. There is some mitigation to this potential disturbance given the proposed layout which includes one double bedroom set between living accommodation on each floor. The bedroom layouts are relatively narrow and orientated away from the front elevation. There would be eight residential units in total to the front of the building and four bedrooms potentially subject to the 'medium' risk as described above. There needs to be a balance struck between encouraging town centre living and the continued economic viability of late night venues. The use of a suggested condition requiring additional noise measures and the proposed layout would minimise the potential for complaints and a negative impact on local businesses.

The data also shows that vibration levels at the development site are highly unlikely to be the cause of any adverse impact.

The Community Safety Team has no objection subject to submission of a detailed Stage 2 Acoustic Report and scheme of noise insulation measures to protect the internal environment of the residential development.

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 Management Plan and compliance can be secured through a suggested planning condition.

The application is supported by a Daylight and Sunlight report. The aim of the assessment is to consider the impact of the development on the light receivable by the neighbouring properties at 11, 11a, 15 to 16 and 17 Strand and 55 to 59 The Terrace. 17 The Strand is a non-domestic building which does not have a requirement for daylight or sunlight. The analysis demonstrates that the proposed development will have a low impact on the light receivable by its neighbouring properties. A single bedroom window at the rear of 55 to 59 The Terrace would be impacted, but would still retain vertical light. This residential building is set down below street level and on balance the impact is considered minimal. The sensitivity is further reduced by the formation of an 'L' shaped building, nestled into the topography which in some cases will improve adjacent outlooks, particularly 55-59 The Terrace. In terms of privacy, inter-looking and overlooking nearby properties to the north are well-distanced and would be unaffected by the development.

#### Waste

In terms of key ancillary elements Policy W1 of the Torbay Local Plan states that as a minimum, all developments should make provision for appropriate storage of waste. The design of the proposed development includes separate bin stores for the commercial and residential components of the scheme. The bin storage for the commercial element is proposed to be located on the ground floor whilst the residential bin store is on the fourth floor within the residential car park. Servicing of the commercial units is proposed to be undertaken by a newly formed loading bay, which is proposed as part of the public realm works currently underway on The Strand which are being funded via Town Deal Funding. The Waste Client Manager has no objection subject to revision of the gradient of the access route to 1:14 to enable waste collection. An amended plan has been provided to resolve this issue. Food and Safety Team have no objection subject to resolving issues regarding waste storage and emissions.

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. Highways, Parking and Movement**

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.

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).

The site is centrally located within Torquay town centre and sits in an established urban environment characterised by a mix of 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.

The public square proposed to front of The Strand is raised above street level and is accessible via both steps and a ramp. The square will provide pedestrian access to the proposed commercial and residential buildings on the site. The proposed vehicular access from The Terrace utilises the existing access position to provide adequate parking arrangement for residential use, including visibility splays. Following the receipt of further information on the visibility splay and manoeuvrability access is considered acceptable with no concerns raised by the Highway Authority. In terms of pedestrian movement there is a segregated narrow footpath fronting the site along The Terrace which will ensure there is no conflict with cars. Subject to the above, the proposal presents an acceptable access and movement linkages with the public highway network.

In terms of the provision of parking and cycling facilities Policy TA3 and Appendix F of the Torbay Local Plan provides the policy context, where it provides estimated requirements for parking that reflect a balance between ensuring that the levels of car parking generated by development are met on site, with the need to ensure that due consideration is also given to sustainable transport methods. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

Appendix F identifies an expected requirement of one car parking space per apartment. The guidance states that parking for visitors should also be provided for flatted development, however there is no guidance on what levels of visitor parking should be provided. The guidance notes also state that all dwellings should have electric charging points and in

flatted development 20% of available spaces should have electric charging points. Each parking space will provide an electric charging point. The parking is provided at one space per flat, with one disabled space and no visitor spaces provided. Given the constrained site envelope, topography and sustainable town centre location this is considered acceptable.

The Council's Highways Team has no objection subject to the provision of a plan showing a visibility splay to The Terrace and further highway data. This has been submitted and is acceptable.

In terms of cycle parking apartments are expected to deliver the capability of storing one cycle per flat. These are provided on a one-to one basis for residential apartments. All of the proposed cycle parking is indoor, secure and sheltered, as well as being equipped to facilitate charging of electric bikes. This is appropriate and in line with Torquay's adopted parking standards. Following comments from the Council's Highways Team the commercial units have also been provided with an appropriate level of cycle parking with one space per two employees.

Finally, to ensure that other forms of transport are promoted a Sustainable Travel Plan (TDA) has been submitted. A condition is suggested to ensure it includes ongoing management to review and improve if the modal shift targets are not being reached.

Considering the broad accordence 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 are raised following the submission of additional information around Secured by Design. This is subject to the use of a condition to secure a scheme of crime prevention measures, such as CCTV. It is recommended that this condition be imposed should planning permission be granted.

The Torquay Neighbourhood Forum have raised the issue of the potential security of new square and rough sleepers. The introduction of new ground floor commercial uses and residential units above offer a much higher level of surveillance to the proposed area. There are pedestrian and cycle improvements being planned on The Strand in the immediate vicinity of the proposed development as part of a Town Deal funded project. As discussed previously, these public realm improvements include segregated cycle paths, new pedestrian crossings and widened footways and space for outdoor dining. The future management of this space and that proposed within the site will require a level of co-ordination and same level of future management.

Subject to the use of this condition, the proposal is in accordance with Policy SS11 of the Local Plan.

## **8. Ecology and Biodiversity**

Policy TE5 of The Torquay Neighbourhood Plan states 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.

In terms of ecology, the site has limited value in terms of flora and fauna. It comprises primarily of building with dense scrub in central portion of the site comprising immature elm and sycamore with buddleia, bramble and ivy. Elsewhere there is some hardstanding, introduced shrub and a single cedar tree.

The development site lies approximately 440m from the Lyme Bay and Torbay Special Area of Conservation (SAC) and the Torbay Marine Conservation Zone (MCZ). There is a potential impact on both designations by water quality from surface water during and post-construction.

There could be potential for increased recreational pressure identified in the Natural England 'Site Improvement Plan' for the SAC1 as a threat to the local sea caves and sea grass. The small proportion of residents who would potentially participate in water sports and impact these features are considered to be 'negligible' and therefore imperceptible from existing variations in annual and seasonal visitor numbers. Without mitigation, the proposals will result in a Likely Significant Effect on the Lyme Bay and Torbay SAC and Appropriate Assessment is therefore required. This assessment has been undertaken and confirms that with mitigation secured through conditions to prevent pollution (through a Construction Environmental Management Plan (CEMP) and drainage conditions) there are not likely to be any significant impacts. The Devon County Council Ecologist is satisfied subject to a suggested planning condition requiring a CEMP.

In terms of biodiversity, in-line with Policy NC1 and guidance contained in the NPPF, measures to enhance biodiversity should be duly considered and it is noted that the submitted ecology report includes biodiversity enhancement measures. The buildings within the site were classed as presenting 'Low' bat roost suitability. The subsequent bat emergence surveys did not identify any bats roosting within the building. The existing scrub on site is considered sub optimal for protected species. The proposal aims to create habitats including biodiverse green roof seeded with wildflower mix, shrub planting to benefit pollinators and new native tree planting would provide enhanced foraging habitat for bats. Further conditions have been suggested to require a LEMP and long term management of these features.

In light of the conclusions above the development is considered comfortably aligned with the aims and objectives of Policies NC1 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) states that 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 furthers 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 application site sits within the wider Torbay Critical Drainage Area as designated by the Environment Agency and there is also a linear flood risk area that partly straddles the site as it runs south following the valley floor and culverted River Fleet down Teignmouth and Lymington Road towards the coast to the south.

The application is supported by a detailed Flood Risk Assessment (Aquatech). When taking into account the future risk of coastal flooding, sea level rise, the ground floor levels of the proposed building has been identified as 4.650m. The FRA proposes discharging surface water drainage directly to Torquay Inner Harbour. This proposal complies with the requirements of the Torbay Critical Drainage Area. As the surface water drainage will be discharging into Torquay Inner Harbour the effects of high tides on the outfall have been included within the hydraulic modelling. Further details have been submitted clarifying the capacity of the pipework. The Council's Engineering Service Manager has no objection.

The Environment Agency has no objection to the application as submitted provided that conditions are included within any permission granted to secure the inclusion of flood resistance and resilience measures within the development and a Construction Environment Management Plan (CEMP). South West Water raise no objection to the proposed scheme and its drainage solution.

In light of the above 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 Design and Access Statement (Kay Elliott) includes an Energy Statement section that states that the strategic approach to the development will be to reduce demand for energy consumption in the first instance (Be Lean) prior to the consideration of integrating low carbon / zero carbon energy sources (Be Clean and Be Green).

The Statement details that design measures include an efficient building form (stacked floor plates (apartments), low wall to floor ratio and terrace design), high levels of thermal insulation, low fabric air permeability, energy efficient LED light fittings and controls, and east

and west facing units allowing for passive solar gain. Regarding further aspirations the Energy Statement states that there will be a strategy to consider the use of clean energy source using heat pump technologies for space heating, and to maximise CO2 reduction the potential for renewable energy sources will be assessed. As these aspirations are not detailed it is considered appropriate to suggest a planning condition to capture due consideration and possible integration of these aspirations.

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 five 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 Para 11 of the NPPF must be applied. Para 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 where 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 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. The development would see the regeneration of the site finding a balance between commercial and residential uses. 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.

The proposed Class E units will create jobs and depending on the final use will secure wider economic benefits through their commercial use.

The integration of the proposed public realm into the wider Strand project will boost tourism through an enhanced harbourside.

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 units to be provided must carry significant weight in this balance.

The public square and creation of the publicly accessible amenity space will also have a social benefit.

The site has not been used for some time and the provision of housing would provide an appropriate use and offer units 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 heritage assets, ecology and biodiversity, contamination, drainage and carbon reduction. These matters have been considered in detail above.

The environmental benefits identified are marginal in the case of any biodiversity net gain, addressing contamination, and mitigating flood impacts. There is an environmental benefit to providing 16 units within a sustainable location where dependency on car use could be limited.

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**

A commuted payment is considered the optimum way of securing off-site provision. The policy framework clearly allows for off-site provision in lieu of on-site and a total requirement for contributions is set at £259,200.

#### **CIL**

The application is for residential development in Zone 1 where the Community Infrastructure Levy (CIL) is £30 per square metre of additional gross internal floor area created.

The CIL liability for this development is £30 per square metre.

The application form states new floorspace created is 1617sqm, assuming this is all liable floorspace this would present a CIL levy of £48,510.00.

#### **S106**

As CIL liable development the application is not subject to 'sustainable development' obligations as identified within the Council's Adopted Affordable Housing SPD and hence it is not appropriate to seek obligations to counter potential pressure upon schools or parks etc. It would however be necessary to secure site acceptability matters where it is needed to make the development acceptable in planning terms, but none are identified.

### **EIA/HRA**

#### **EIA**

P/2022/0637 - Request for Screening Opinion for redevelopment of former Debenhams store to five ground floor commercial units and sixteen residential apartments. EIA not required.

#### **HRA**

An HRA was undertaken by the Devon County Council Ecologist. Due to the scale, nature and location and, subject to conditions to secure mitigation, this development is not considered to have a likely significant effect on European Sites.

#### **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. The scheme aligns with the regeneration aims of the Council and would minimise impacts on heritage, ecology and highway matters set out

above. The public benefits of the proposed development weigh heavily in favour of the development.

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

The proposal is considered a good use of a vacant brownfield site that would provide much needed housing to help meet local need. It would also provide accessible ground floor commercial uses designed around a new set piece square to be integrated into The Strand.

The proposals are in accordance with the provisions of the Development Plan when taken as a whole and the 'Tilted Balance' adds significant weight in favour of the development in the absence of significant harm being identified.

The Torquay Neighbourhood Plan states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan (Policy TS4 - Support for Brownfield and Greenfield development). There are deemed to be no significant adverse impacts, as outlined within this report.

### **Officer Recommendation**

Approval subject to:

The Council commitment to make the off-site affordable housing contribution prior to occupation of the ninth residential unit being confirmed to the satisfaction of the Divisional Director - Planning, Housing & Climate Emergency.

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

### **Conditions**

#### **1. Written scheme of investigation**

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

#### **Reason**

To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and para 205 of the National Planning Policy Framework (2021), that an appropriate record is made of archaeological evidence that may be affected by the development.

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. Construction Management Plan**

The development hereby approved shall take place in strict accordance with a Construction Management Plan which shall be submitted to and been approved in writing by the Local Planning Authority prior to the commencement of development. The plan must demonstrate

the adoption and use of the best practicable means to reduce the effects of noise, & and dust. The plan should include, but not be limited to:

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

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

### **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.

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

### **3. Construction Environment Management Plan (CEMP)**

No development shall take place until a detailed Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details of all permits, contingency plans and mitigation measures that shall be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes and which would include a detailed method statement for any high-risk activities, including potential discharge into the adjacent SAC, with particular attention being paid to the constraints and risks of the site. Thereafter the development shall be carried out in accordance with the approved details and any subsequent amendments shall be agreed in writing with the Local Planning Authority.

### **Reason**

To ensure that adequate measures are put in place to avoid or manage the risk of pollution or waste production during the course of the development works.

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

### **4. Landscape and Ecological Management Plan (LEMP)**

Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, shall be submitted to the Local Planning Authority and shall include, but not be limited to, the following:

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of responsibility for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

All post-construction site management shall be undertaken in accordance with the LEMP for the lifetime of the development

### **Reason**

To secure a satisfactory form of development in accordance with Policies DE3, SS8, C4 and NC1 of the Torbay Local Plan and THW4 of the Torquay Neighbourhood Plan.

### **5. FRA / Drainage**

The development shall be carried out in accordance with the submitted Flood Risk Assessment ref. no. AT2497 by Aqua Tech (submitted 08.07.2022) 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 and shall be retained and maintained thereafter throughout the lifetime 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 and guidance contained in the NPPF.

### **6. Hard and Soft Landscaping**

Prior to the first occupation of the development a detailed hard and soft landscape plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include details for maintenance of the landscaping. The approved hard surfacing shall be implemented prior to the first occupation or use of the development, and the approved soft landscaping shall be implemented in full within the first available planting season following the first occupation of the development unless an alternative timetable has been agreed in writing with the Local Planning Authority. The landscaping shall be maintained in accordance with the approved maintenance plan.

In the event of failure of any trees/plants, planted in accordance with any approved scheme, to become established and to prosper for a period of 5 years from the date of the completion

of implementation of that scheme, such trees/plants shall be replaced in the next planting season and maintained in accordance with the landscape plan.

**Reason**

In the interests of visual amenity and in accordance with Policies DE1, SS8 and C4 of the Torbay Local Plan and Policies THW4 and TH8 of the Torquay Neighbourhood Plan.

**7. Ecology - Nesting season**

The removal of vegetation shall only 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 and a record of the inspection shall be made and made available to the Local Planning Authority upon request. 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 and the NPPF.

**8. 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 104% net gain for biodiversity, 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 the approved measures shall be retained 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 and advice contained within the NPPF.

**9. External lighting**

Prior to the first use of the development an external lighting plan, including security lighting, which seeks to ensure no undue impact upon adjacent occupiers or wildlife habitats, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall proceed in full accordance with the approved lighting plan and no additional external lighting shall be incorporated within the development during its lifetime.

**Reason**

In order to protect visual amenity and the amenity of adjacent occupiers by maintaining a satisfactory form of development in accordance with Policies DE1, DE3 and NC1 of the Torbay Local Plan.

**10. Public Realm**

Prior to the first use of the commercial units hereby approved, full details of the public realm area (as shown on plan 0290-BDL-XX-XX-DR-L-0800-P08) 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 public realm shall

be installed in accordance with the approved details as approved prior to the use of the commercial units. The public realm shall thereafter be retained and maintained as a public area and shall not be used for any other purpose.

#### **Reason**

In the interests of design and public amenity in order to accord with Policy DE1 of the Torbay Local Plan, TH8 of Torquay Neighbourhood Plan and the NPPF.

#### **11. Detailed Design**

Prior to the installation of any external materials within the development details of the following shall be submitted to and approved in writing by the Local Planning Authority:

1. Samples, physical or digital of all proposed material finishes, including colour code where applicable and source/type of the facing and roofing materials,
2. Detailed drawings of all proposed windows, doors, balconies, fascia and eaves, and section / reveal detail to a scale of between 1:1 and 1:10 and means of opening where applicable,
3. Details of all balcony enclosures, including an assessment and proposed measures to afford due protection to the amenity of occupiers neighbouring buildings,
4. Details of all proposed fabric parasols and canopies within the public square,
5. Details showing the ironwork trellis on western boundary,
6. Full details of proposed public art.

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 amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

#### **12. Column retention and design**

No development shall take place above slab level until full details, including a timetable for the works, have been submitted to and approved in writing by the Local Planning Authority.

1. Repair and making good of canopy columns.
2. Proposed column positions.
3. Solar panels and lighting.

All the works shall take place in accordance with the approved specification, the approved timetable of works and shall be retained as such for the lifetime of the development.

#### **Reason**

In order to protect visual amenity in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

#### **13. Boundary Treatments and Means of Enclosure**

Prior to their construction or installation, details of all boundary treatments, gates and retaining structures shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved detail and the boundary treatments shall be retained as approved at all times during the lifetime of the development. No additional or alternative means of enclosure shall be provided at any time.

#### **Reason**

In the interests of design and visual amenity, in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan.

#### **14. Parking Provision**

Prior to the first occupation of any unit within the development hereby permitted, the parking facilities, manoeuvring areas, and electric charging points shown on the approved plans associated with that unit shall be provided and thereafter permanently retained for the use of vehicles associated with the development.

##### **Reason**

To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

#### **15. Electric Charging Facilities**

Notwithstanding details submitted in support of the application, prior to the first occupation of any apartment hereby approved details for the provision of at least one vehicle electric charging facility to serve that apartment shall be submitted to and approved in writing by the Local Planning Authority.

The approved facilities shall be implemented in full prior to the first occupation of each apartment and retained and maintained thereafter.

##### **Reason**

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

#### **16. Cycle Provision**

Prior to the first occupation of the apartment building the cycle storage facilities, as detailed within the approved plans, shall be completed and made available for the purpose of cycle storage to serve occupiers of the development, and prior to the occupation of each dwelling the cycle storage facilities for that dwelling shall be completed and made available for the purpose of cycle storage to serve the dwelling. Once provided, the storage arrangements shall be retained for the life of the development for such purposes.

##### **Reason**

In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan 2012-2030.

#### **17. Waste Management Plan**

The development shall be carried out in accordance with the submitted Waste Management Plan ref. no. 3436 by TDA (submitted 08.07.2022) 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**

To ensure that the private waste collection strategy for the apartment building and commercial units, which will not receive waste collection from the local authority due to the distance of the collection point from the adopted highway network, accords with locally established recycling rates, to accord with Policies W1 and W2 of the Torbay Local Plan.

#### **18. Implementation of refuse facilities (dwellings)**

Prior to the occupation of any dwelling hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided for that dwelling. Once provided the storage arrangements shall be retained and maintained for the life of the development.

**Reason**

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

**19. Implementation of refuse facilities (commercial units)**

Prior to the occupation of the commercial units hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided for those units. Once provided the storage arrangements shall be retained and maintained for the life of the development.

**Reason**

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

**20. Travel Plan**

Prior to the first occupation of the development a Sustainable Travel Plan that seeks to meet Policy requirements of a 30% modal shift to foot, cycle and public transport, with appropriate mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority. The approved travel plan shall be implemented for the lifetime of the development.

**Reason**

To ensure sustainable travel modes are duly promoted and healthy lifestyles promoted, in accordance with Policies TA1, TA2, DE1 and SC1 of the Torbay Local Plan 2012-2030.

**21. Energy**

The development shall proceed in accordance with the energy saving measures outlined within the submitted and approved Energy Statement by TDA (submitted 08.07.2022). 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.

**22. Secured by Design**

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable and the measures shall be incorporated into the development prior to that part of the development to which they relate being brought into use.

**Reason**

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

**23. Noise**

No development shall take place above slab level until a detailed Stage 2 acoustic report (as recommended in the Stage 1 Acoustic Review for the re-development of former Debenhams site, 12-14 The Strand Torquay, undertaken by S B CONSULTING Engineering & Acoustics Limited 28/10/22) has been submitted to, and been approved in writing by the Local Planning Authority. The Stage 2 report shall include a scheme of noise insulation measures for the proposed residential accommodation and shall include calculation of façade sound insulation levels, prediction of internal noise levels in habitable rooms, a review of the ventilation strategy to support the acoustic design, a review of external amenity areas, and details of the design of the separating wall with Yates public house (15-16 The Strand). The aim shall be to achieve acceptable living conditions as defined in ProPG and BS8233:2014.



The agreed measures shall be implemented prior to those units to which the measures relate are brought into use and shall be retained and maintained for the lifetime of the development.

#### **Reason**

In order to safeguard the amenities of future residential occupiers and protect the viability of local businesses. The details are needed prior to development above slab level so that measures can be incorporated into the build.

#### **24. Class E consent**

The commercial units 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.

#### **25. 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 units 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.

#### **26. Extraction equipment**

Prior to the installation of the following in the development hereby permitted, details (including manufacturer's specifications, colour, materials and appearance) 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

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

#### **Reason**

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

#### **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.
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**

#### **Development Plan Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS3 - Presumption in favour of sustainable dev  
SS8 - Natural Environment  
SS9 - Green Infrastructure  
SS10 - Conservation and the historic environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
SS14 – Low carbon development and adaption to climate change  
SC1 – Healthy Bay  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1 - Applications for new homes  
HE1 - Listed buildings  
DE1 - Design  
DE3 - Development Amenity  
DE4 – Building heights  
ER1 - Flood Risk  
ER2 - Water Management  
ER3 – Contamination  
ES1 – Energy  
W1 - Waste management facilities  
W2 – Waste Audit for major and significant waste generating development  
NC1 - Biodiversity and geodiversity

#### **Torquay Neighbourhood Plan**

TS1 - Sustainable Development  
TS4 - Support for Brownfield and Greenfield development  
TH1 – Housing allocations  
TH8 - Established architecture  
TH9 - Parking facilities  
TE5 - Protected species habitats and biodiversity  
TH2 - Designing out crime

TTR2 - Sustainable Communities  
THW3 – Community facilities  
THW4 - Outside space provision  
THW5 - Access to sustainable transport