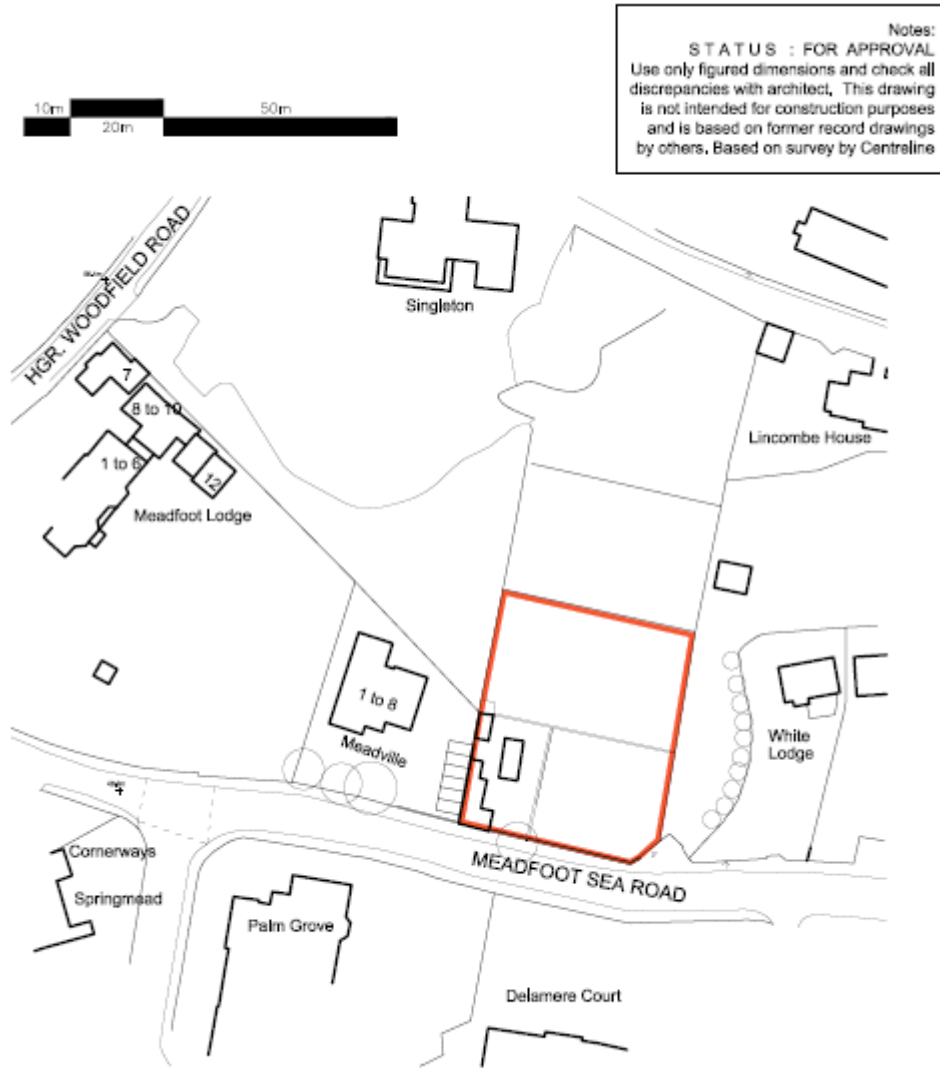


TORBAY COUNCIL

| | |
|---|--|
| Application Site Address | Singleton Gardens Meadfoot Sea Road Torquay TQ1 2LQ |
| Proposal | Erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing dwelling; plus associated landscaping and access work. |
| Application Number | P/2022/1186 |
| Applicant | Mr R Bishop - O.J. Developments Ltd. |
| Agent | Mr D Metcalfe |
| Date Application Valid | 31/10/2022 |
| Decision Due date | 30/01/2023 |
| Extension of Time Date | 01/09/2023 |
| Recommendation | Conditional approval subject to the conditions detailed below and subject to the completion of a Section 106 Agreement to secure affordable housing contributions. 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 of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations. |
| Reason for Referral to Planning Committee | The application has been referred to Planning Committee due it being of a major nature. |
| Planning Case Officer | Verity Clark |

Location Plan:



Notes:
STATUS : FOR APPROVAL
Use only figured dimensions and check all discrepancies with architect. This drawing is not intended for construction purposes and is based on former record drawings by others. Based on survey by Centreline



Site Details

The site, Singleton Gardens, is a residential dwelling with land on the northern edge of Meadfoot Sea Road. The residential dwelling is modest in scale within a large plot. The site is enclosed by stone and rendered boundary walls. The land rises to the north towards Lincombe Drive, with a copse of trees set above the northern extremity of the site boundary. To the north-west of the site are two large villas (Singleton and Meadfoot Lodge) with extensive grounds and directly to the north west is Meadville which is a modern building in use as flats. To the east lies an array of private houses of varying ages and types. To the south of the site, on the opposing side of Meadfoot Sea Road are large villas with extensive grounds.

The site is located within an existing residential area, is designated as Flood Zone 1, is situated within the Lincombes Conservation Area and is subject to Area Tree Protection Order (1973.001). Within the Lincombes Conservation Area map, the dwelling, greenhouse and an outbuilding are noted as other key buildings of architectural importance which make a significant contribution to the townscape. The site is adjacent to 'Singleton' (Grade II listed) and 'Palm Grove' (Grade II listed) is located on the opposite side of Meadfoot Sea Road and to the north west the nearby Meadfoot Lodge and wall and gate piers to the west of Meadfoot Lodge are Grade II listed.

Description of Development

The proposal seeks permission for the formation of seven apartments and two attached dwellings with a revised access and parking provision. The proposal includes the demolition of existing outbuildings, namely the greenhouse and a pitched roof outbuilding. Alterations and extensions to the existing dwelling are also proposed to include a single storey and two storey extension.

The proposed apartment block would involve a mixture of two (1x), three (5x) and four (1x) bedroom apartments, which would have four storeys. The proposed apartment block would have an asymmetrical frontage and would be sited in the rear section of the plot, attaching to and built into a re-built horizontal stone dividing wall. The proposed apartment block would be finished in render, zinc effect vertical cladding, with powder coated aluminium openings and dark grey metal rainwater goods.

The proposed attached dwellings would both be two storeys, with a section of single storey adjacent to Meadfoot Sea Road. Both units would feature three bedrooms. The proposed dwellings would have a flat roof with one integral garage serving the northern attached dwelling. The proposed finish of the dwellings would include limestone at ground floor level, with the first floor finished in zinc effect vertical cladding, with powder coated aluminium openings and a solid vertical larch plank doors serving the integral garage. The single storey flat roof will feature a sedum roof.

The proposals would have a new vehicular access from Meadfoot Sea Road and the existing southern boundary wall adjacent to Meadfoot Sea Road will be demolished and rebuilt in stone. The proposal will retain the existing north, east and western boundary walls. The site would provide a total of 14 on-site parking spaces; one of which would be within an integral garage serving one of the attached dwellings, 7 within the courtyard, and 7 within the undercroft of the apartment block. The apartments would be served by 1 car parking space each, the attached dwellings would be served by 2 parking spaces each, the existing dwelling would be served by 2 parking spaces and 1 visitor space would be provided within the courtyard.

A detailed landscaping scheme is proposed with new trees (including 5 replacement apple trees), planting beds and gardens.

Relevant Planning History

Pre-application enquiry DE/2019/0015: Development of 8 apartments with parking. Summary - The principle of residential development in this location is considered acceptable however, as discussed, there are a number of concerns relating to the proposal's design and layout; impact on neighbours; along with a workable parking and manoeuvring area. Should a planning application be submitted, planning officers are unlikely to support a proposal along the lines indicated in your submission. It is likely that the matters raised could be addressed if the scale and bulk of the proposed development was reduced in line with comments provided by the Council's Interim Heritage Advisor, which would decrease the amount of residential units and parking required, and subject to acceptable impacts on neighbours.

Pre-application enquiry DE/2020/0042: Construction of six dwellings. Summary - The principle of residential development in this location is considered broadly acceptable subject to wider policy considerations. As discussed, there are a number of concerns relating to the proposal's design and layout; impact on neighbours; along with a workable parking and manoeuvring area. Should a planning application be submitted, planning officers are unlikely to support a proposal along the lines indicated in your submission. It is likely that the matters raised could be addressed if the design was sensitive to the heritage assets, along with decreasing the amount of parking proposed, and ensuring that the scheme has an acceptable impact on adjacent occupiers.

P/2021/0802: Formation of 9 apartments & 2 semi-detached dwellings with access, garages & parking. Demolition of existing outbuildings. Alterations & extensions to existing dwelling to include 2 storey extension to side. Refused 18/03/2022 for the following reasons:

- Given the siting, scale and design of the proposal, it is considered the proposal would fail to reflect local distinctiveness as well as failing to relate acceptably

to the heritage assets. The proposed siting, scale and design of the semi-detached dwellings is suburban in character and would be dominant in the street scene. As such they would be inappropriate and out of character with the context of the site and surrounding area and fail to respect the local character and would lead to less than substantial harm to the setting of the 'Palm Grove' listed building. The proposed scale and design of the apartment block fails to provide a quality design, respect the local character in terms of design, scale and bulk, and in terms of reflecting the identity of its surroundings. It would present itself as an overtly dominant mass within the locality that would be highly visible within the Lincombes Conservation Area. The proposal in its totality would result in an incongruous addition that would cause demonstrable harm to the heritage assets that is not outweighed by sufficient public benefit. The proposal is considered to fail to conserve or enhance the distinctive character and appearance of the Lincombes Conservation Area and would lead to less than substantial harm to the heritage asset. The proposal is considered to be contrary to Policies DE1 and SS10 of the Adopted Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the guidance contained within the NPPF, in particular Paragraphs 130, 134, 199 and 202.

- The proposed development would provide a poor quality residential environment by reason of the trees adjacent to the western boundary in relation to the proposed apartment block, in particular apartments 3, 6 and 8, some of the habitable rooms would have limited access to natural light given the trees, which would result in the creation of an environment injurious to the amenity of future residents, contrary to Policy DE3 of the Adopted Torbay Local Plan 2012-2030 and the National Planning Policy Framework, in particular Paragraph 130.
- The proposed works are in close proximity to a protected tree within the Lincombes Conservation Area. As insufficient information has been provided it cannot be confirmed that the proposal would have an acceptable impact on the protected tree and the contribution it makes to the surrounding streetscene, and therefore whether the proposal would be in accordance with Policy C4 of the Adopted Torbay Local Plan 2012-2030.
- The proposal, in the absence of a completed S106 Legal Agreement, fails to secure the necessary provision of affordable housing, contrary to Policy H2 of the Adopted Torbay Local Plan 2012-2030 and the National Planning Policy Framework, in particular Paragraphs 63 and 65.

Pre-application enquiry DE/2022/0068: Formation of 7 apartments & 2 semi-detached dwellings with access, garages & parking. Demolition of existing outbuildings. Alterations & extensions to existing dwelling to include 2 storey extension to side. Summary - The principle of residential development in this location is considered

broadly acceptable subject to wider policy considerations. The design presented is considered to represent a positive design solution to the concerns previously raised. From the floor plans presented it appears that the apartments on this side of the building feature multiple openings on different elevations and the siting has been moved away from this boundary. This has likely addressed the second reason for refusal. We would expect arboricultural information to be submitted in support of the application to address the third reason for refusal. The last reason for refusal related to affordable housing provision. Policy H2 seeks affordable housing contributions on greenfield sites of three dwellings or more. For nine dwellings it would have an affordable housing target of 15% which is usually sought through a commuted sum. Should a planning application be submitted detailing the proposed apartment building, semi-detached coach houses and extension to the existing dwelling, planning officers are likely to support a proposal.

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 Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Lincombes Conservation Area and sets out the general duty as respects listed buildings, which requires Local Authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. 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

Material Considerations

- National Planning Policy Framework (NPPF)
- The Planning (Listed Buildings and Conservation Areas) Act 1990
- Planning Practice Guidance (PPG)
- Planning Contributions and Affordable Housing SPD 2017 (transitional agreement applies as the application was submitted prior to the adoption of the 2022 SPD)
- Lincombes Conservation Area Map
- 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:

Summary of Representations

The application was publicised through a site notice, newspaper advert and neighbour notification letters. At the time of writing approximately 164 letters of objection and 45 letters of support have been received. The following provides a summary of the main issues identified:

Objections include:

- Lack of affordable housing provision
- Destruction of green space
- Ecological and biodiversity impacts
- Climate emergency
- Lack of biodiversity net gain
- Extent of hard surfacing
- Design and visual appearance
- Destruction of walled garden
- Impact on historic importance
- Traffic
- Increase in second home ownership/ holiday letting use
- Loss of potential use as a community garden, associated community projects and involvement
- Proposal will not add to the local community
- Luxury flats are not required
- Site should be restored to former use
- Importance of green space
- Question if the proposal is the best use of the land
- Impact on the Conservation Area
- Wildlife impacts
- Out of keeping with detached villas in the area
- Not in line with central government policy
- Destroys heritage and tourism
- Overdevelopment
- Parking provision insufficient
- Brownfield sites should be considered for development
- History of the site and its links to Singleton Manor
- Quality of the heritage assessment
- Overlooking
- Loss of light
- Daylight and overshadowing of the properties and amenities
- Buildings overly dominant within its setting
- Visual appearance of bin store
- Building lines
- Materials out of keeping

- Quality of ecological surveys
- Ecology reports not undertaken in line with best practice
- Internal floor areas
- Development will not protect the special historic interest
- Could set a precedent
- Proposal does not preserve or enhance conservation area
- Garden grabbing
- Previous reasons for refusal applicable
- No demonstrable public benefit
- Failure to publish DRP comments and pre-application advice
- Restricted and tight turning
- Not in compliance with NPPF, Torbay Heritage Strategy and policies in Torbay Local Plan and Neighbourhood Plan
- Two new buildings on the plot are excessive
- Impact on tourism
- Noise
- Increased traffic
- Facilities, services and road infrastructure not sufficient for increased housing
- Proposal is out of character
- Impact on trees and gardens
- Destruction of historic stone walls, landscaping and original garden
- Impact on listed buildings
- Community use of the site
- Heritage crime
- Impact on historic environment
- Heritage significance of the site
- Site should be considered curtilage listed
- Lack of conservation area appraisal
- Lack of professional and 'sound' assessment
- Proposal will break up sense of place
- Potential of site for restoration and horticulture
- Proposal will not improve Torquay
- Number of storeys should be reduced from 4 to 3
- Out of date reports and surveys
- Need for sensitive reinstatement of collapsed wall on Lincombe Drive and new entrance on Meadfoot Sea Road
- Poor quality
- Too many units
- Water run off
- Over population
- Light pollution
- Incongruous urban form of development

- Safety
- Impact on NHS
- Too big
- Loss of trees
- Not sufficient access
- Impact on local business that rely on on-street parking
- Contribute to housing crisis
- Coach houses position forward of the predominant building line is dominant in the streetscene
- Design does not reflect local distinctiveness
- Large scale development
- Massing of apartment block
- Visually intrusive
- Coach houses in this location interrupt the character and appearance of the streetscene and erode the quality of this part of the conservation area
- Cycle storage insufficient
- Proposal results in less than substantial harm
- Five year housing land supply and ability to resist development
- Unsympathetic design
- Full residential use should be encouraged in any permission with short term lets and Air B&B banned
- Destroy open vista
- Wall along Meadfoot Sea Road contributes to vista and character
- Development out of line with existing properties
- Job creation temporary and few and cannot guarantee they will be recruited locally
- Does not provide housing which is needed
- Density
- Impact on historic perimeter wall
- Anti-social behaviour from disagreements over inconsiderate parking which will result
- Different architectural approaches
- Ability of emergency services to access development
- Block views
- Lack of garden space
- Too much infill already
- Height
- Visual barrier to trees at the back of the site
- Too large
- Not identified for development in Local Plan or Neighbourhood Plan
- Economic climate could result in modifications to proposal
- Scale

- Highly visible
- Lack of carbon reduction
- Inaccurate development description
- Further information/clarification required from consultant arborist and Council tree officer
- Value of fruit trees/ ancient orchard
- Arboricultural reports inadequate/incorrect and reporting disagreed with
- Shade impacts from trees
- More planting should be offered
- Criticism of Torbay Design Review Panel
- Trees removed without consent
- Failure to comply with the Wildlife and Countryside Act
- Weakens sense of place
- Criticism of internal officer advice on conservation, assessment and appraisal
- Information supporting listing of site
- Benefits of community garden
- Proposals should comply with the Environment Improvement Plan 2023
- Impact on designated and undesignated heritage assets

Comments in support include:

- Good development
- Practical
- Needed development
- Mixed properties
- Makes use of a neglected site
- Fitting for the area
- Overall improvement with more superior accommodation to the area
- Provides housing
- Bring jobs into the economy
- More residents to support local businesses
- Commercial and residential construction stimulates growth
- Low carbon footprint
- In keeping with area
- Design
- Large plot that should be developed
- Adds value to area
- Generate income for Council and local businesses
- Improvement on previous proposal
- Removal of wall which is a long term danger to pedestrians
- Sympathetic to neighbouring properties and surrounding area
- Little site coverage

- Sit comfortably amongst surrounding properties

Summary of Consultation Responses

Torquay Neighbourhood Forum:

Response dated 27/02/23:

The Forum notes that over 100 Objections have been placed on the Planning Portal, including from the Wellswood Community Partnership. The Application was discussed at the Steering Group Meeting on 22 February, and it was agreed to submit a Consultee Response Objecting to the proposed development.

An earlier development proposal (P/2021/0802) for 9 apartments and 2 dwellings was rightly Refused owing to non-compliance with a number of Development Policies. It is the opinion of the Forum that this new Application fails to address the concerns and Policy non-compliances related to the previous Application, P/2021/0802.

The proposed Development is out of keeping with other properties in the Lincombes Conservation Area, which comprises a significant number of larger properties in open green spaces. The Forum is also concerned about the environmental impact of removal of trees, and adverse effects on protected species. The environmental assessments are out of date.

The attached Development Policy Checklist shows non-compliance with 31 Development Policies. On that basis, the Neighbourhood Forum requests that this Application be Refused. If you are minded to Approve the Application, then the Forum requests that it be referred to the Planning Committee for consideration.

Torbay Council's Drainage Engineer:

Response dated 9/12/22:

1. The developer has submitted a surface water drainage layout, drawing number 818.12 and the hydraulic design for the surface water drainage (DW25804). Unfortunately, the drainage design does not correspond to the drainage layout shown on drawing number 818.12. The drainage design that has been submitted relates to the previous planning application for this site (P/2021/0802).
2. The surface water drainage drawing identifies the manhole cover and invert levels, however the drawing does not include the pipe lengths, pipe diameters, pipe gradients and pipe numbering used within the hydraulic modelling. In addition, a drawing is required showing the impermeable area discharging to

each pipe length within the hydraulic model. These are required in order to check that the input data to the hydraulic model corresponds with that on the drawing.

3. The developer must supply the hydraulic model to show that the surface water drainage has been designed in order that there is no risk of flooding to buildings on site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.

The developer must address the issues highlighted above before planning permission is granted for this development.

Response dated 27/03/23 following the submission of further information:

Further to your email dated 17th March 2023 attaching the revised surface water drainage design in for the above planning application, I can confirm that providing the surface water drainage is constructed in accordance with the submitted documents, I have no objections on drainage grounds to planning permission being granted for this development.

Environment Agency:

No response received.

Torbay Council's Senior Tree Officer/ Green Infrastructure Manager:

Response dated 20/04/23:

Development Proposal:

Erection of 7 apartments, 2 attached dwellings and extensions/refurbishments to an existing dwelling; plus associated landscaping and access work.

Address:

Singleton Gardens, Meadfoot Sea Road, Torquay, TQ1 2LQ

Purpose

I visited the site on the 12th April 2023 and entered the site by prior agreement with the landowner. I was accompanied by Dan Vickridge, Green Infrastructure Manager. The purpose of the site assessment was to review the application submissions and additional information pertinent to the planning application and development proposal. My role is to consider this information in light of public and consultee comments and representations made in relation to the planning application.

Findings

I have specifically reviewed the layout based on the Proposed Block Plan 818.09 and the Proposed Elevations 818.15, but have also considered other plans as supplied.

Based on my experience, I consider the site to have all the characteristics and layout of a formal garden. The location and form of the structural elements e.g. glasshouses, south-facing walls, suggest this has possibly changed in context from a kitchen garden to domestic / private amenity space. The layout of planting, formally maintained lawns and the woody / tree species composition is currently consistent with that of a garden.

I can confirm that the tree survey has been carried out in accordance with BS5837:2012 Trees in relation to design, demolition and construction – Recommendations by Aspect Tree Consultancy. The trees have been accurately surveyed (Aspect Ref: 05942) with the tree attribute information corresponding to the tree constraints plan (Aspect Ref: 05942 TCP 27.02.23).

I can confirm that there are no trees within the moderate (B) or high (A) categories (BS5837) within the application area. Trees within the low (C) category (T1 – T5, G8, G9, T10, H12, S13 & T16) and trees which are unsuitable for retention (T6) have been identified in the application area.

Offsite trees in third-party ownership have been identified as T7 (high category), G11 (moderate category) and G14 (moderate quality). These trees have been specified for retention with limited management which accords with BS3998:2010 Tree work – Recommendations.

Woodland W15 is not within the application area and has been categorised within the moderate (B) category, and is retained.

The Arboricultural Impact Assessment Report Ref: 05942 AIA 13.03.23 has been submitted and provides a comprehensive and professionally objective representation of the trees and their relationship to their surroundings and the development. I will refer to this document as the AIA.

I can confirm that T6 is dead. The removal of T6 has been specified. Apple trees T2, T3, T5, T10 & T16 are live trees and are actively managed by pruning consistent with my knowledge of fruit production.

Image 2 within the AIA clearly show two cut apple tree stumps, one of which is hollow. I am unable to confirm if the removal of the trees was pre-empted by a failure or damage incident.

The Devon County Council Ecologist has referred the query relating to the potential Priority Habitat status of the alleged 'ancient' orchard to the applicants ecological consultant for further consideration.

I carried out a desktop assessment on the 13th April 2023 using the Defra Magic Map service. This has not identified any published records referring to the apple trees being within the priority habitat (Traditional Orchard). Further clarification of this position should be made by a qualified ecologist as this is not strictly an arboricultural issue.

I am in agreement with the Aspect report findings related to the estimated age of the apple trees (Mitchell methodology) and concur that these trees are not 'veteran' trees based on their age or attributes. Based on my experience of working within orchards in the south-west of England, I have also estimated their age in the 25 – 40 year range.

The development proposal requires the removal of a number of trees and shrub planted areas. These have been identified in the Tree Protection Plan (Aspect Ref: 05942 TPP 13.03.23). Trees specified for retention are clearly indicated within areas enclosed by tree protection measures with works areas requiring arboricultural method statements (AMS) identified.

Tree removals and their relative impact on amenity and local landscape character have been assessed in the Aspect AIA in sections 6.3 – 6.5 and I am in agreement with this assessment.

T4 (Chusan Palm) has been identified for transplanting. An AMS will be required for this operation with a transplanting location identified on site (if retained within the property)

Proposed works within the root protection area of T7 will require further detailed discussions to ensure the AMS is properly specified and structured to ensure this high-quality tree remains undamaged during any potential development process.

Crown management works to T7 have been specified to address overhang above the proposed development area. Tree management works have also been specified to G11 to prevent future spatial relationship conflicts with the proposed eastern elevation of the proposed flats. These works are broadly acceptable and accord with good arboricultural practice.

G9 has been identified for thinning from a group of 6 Chusan palms to 3 retained specimens. This work is broadly acceptable as a management objective.

Based on the scale / layout of the proposed development and the information provided, I have no arboricultural objections to the application. The proposed layout and elevations will not lead to future conflict or pressure to fell or prune G11 or W15.

The proposed vehicle access will require cyclical maintenance to ensure high-sided vehicles can access the property. This management work can be addressed through existing tree maintenance contracts in place with the council following the initial pruning being undertaken as part of the development. The spatial relationship of T7 to the existing dwelling is established.

Planning conditions should be applied to secure the pre-commencement installation of tree protection measures and the submission of (for approval by the LPA) of an arboricultural method statement for works within the root protection area of T7. T4 will require an arboricultural method statement for transplanting, replanting and aftercare.

Response dated 30/06/23:

I have reviewed the proposed planting and think the use of ornamental cherry and dwarf pine is less than ideal. I think this is a missed opportunity to include statement trees which will help to soften and integrate the building into the surrounding area.

I would suggest replacing the cherry with Magnolia grandiflora 'Praecox' which has evergreen foliage and flowering attributes. The dwarf pine should be replaced with a columnar conifer e.g. Irish Yew, which thrives locally and is pruning tolerant to maintain its shape. Equally, Dawn Redwood is an interesting deciduous species which might add interest.

Happy to discuss with the landscape architect if required, but larger trees will be essential to this project in my view.

Response dated 14/07/23 following the submission of an updated landscaping scheme:

Many thanks for the updated plans and information. Thanks to the project architect for taking on board my comments and incorporating them into the revised design.

I would suggest incorporating an additional apple tree in the line of the trees on the northern boundary to meet the ecologists requirements. The ultimate height / spread of the apple trees might be controlled by pruning, which is traditional management and corresponds with apple tree management already existing on this property.

I wouldn't want to see the formal planting arrangement altered as I am satisfied with the updated planting locations, species choice and rationale for the overall visual / conservation benefits to the project.

Response dated 24/07/23:

Thank you for the additional information / representation from Dartforest Ltd dated 21st July 2023. I have reviewed the comprehensive information and concluded that this does not alter my professional assessment of the development proposal or my advice already provided on this application. To that effect, I will not be providing any updated comments.

Devon County Council's Ecologist:

Response dated 08/02/23:

Further clarification required prior to determination.

The ecology surveys submitted as part of this application were undertaken in April and May 2021, which means at the time of submission (October 2022), the results of these surveys were 17 months in age. CIEEM guidelines on the 'Lifespan of Ecological Reports and Surveys (April 2019)' states that data which is between 12 months and 18 months in age, whilst likely to be valid in most cases, there is the following exception: Where a site may offer existing or new features which could be utilised by a mobile species within a short timeframe. This exception may well be applicable in this instance given the building onsite could now offer additional features which can be used by bats, which were not present during the 2021 surveys. Clarification is therefore required by the consultant ecologist on the validity of the results of the 2021 ecology reports.

The LPA ecologist has received communication from the PTES that the part of site which forms Target Note 4 in the Preliminary Ecological Assessment is designated as a traditional orchard (i.e. priority and potentially irreplaceable habitat). The consultee from PTES states that 'The site meets the criteria for Traditional Orchard Priority Habitat being 5 or more standard fruit trees in a group managed without chemicals. There has been an orchard on this site for well over a century, so adding to the importance of the habitat. The 5 or 6 existing fruit trees are likely to have veteran features such as crevices in the bark and hollowing heartwood, so should be treated as "ancient or veteran trees" as per paragraph 180(c) of the NPPF' Clarification and justification is required from the consultant ecologist as to whether this habitat does represent the priority habitat of 'traditional/ancient orchard' and whether the fruit trees present onsite have veteran features.

As per published national guidelines, 2 bat emergence surveys are required in order to establish presence/likely absence of bats on structures which offer 'moderate bat roosting potential'. Clarification and justification is required from the consultant ecologist as to why only one emergence survey was undertaken on both buildings, given the description of the buildings as offering 'low-medium' roosting potential.

Details on the proposed reptile receptor site should be provided to the LPA for comment.

Clarification is required from the consultant ecologist as to whether badgers are to be impacted by the proposals and what mitigation measures (if any) are required.

Response dated 17/07/23 following the submission of further information:

Ok subject to conditions.

It is the view of the LPA ecologist that there are no ecological policy or legislative reasons for refusal of this planning application.

Historic England:

Response dated 26/01/23 following a request to consider listing the site:

The walled garden and its associated structures at Singleton Gardens, Torquay, dating to the mid-C19 with alterations and losses, do not meet the criteria for listing in a national context.

Response dated 11/07/23 following a request for further consideration of listing:

After examining all the records and other relevant information and having carefully considered the historic interest of the case, the criteria for the registration of the walled garden associated with the property known as Singleton Gardens, Torquay, Devon are not fulfilled.

Devon CPRE:

Response dated 23/02/23:

Devon CPRE objects to this planning application.

The National Planning Policy Framework (2021) (NPPF) highlights that the environmental objective of sustainable development should be pursued in a “positive way” (paragraphs 8 and 9 of the NPPF), and Devon CPRE would like to emphasise that this site has been identified by the community as having natural and historic built environment qualities worthy of protection and enhancement, which should guide decision making.

Local planning policy is clear regarding the need for new development to contribute to local character and distinctiveness (Policy SS10 and DE1), with Policy NC1 specifying that development should not result in the loss or deterioration of habitats, with the

emphasis upon conservation and enhancement. Trees also have an important role to play and Local Plan Policy C4 highlights this.

Given the significant number of representations raised by not only the community, but specialists including an arboriculturalist, concerns are raised that the proposal does not accord with national or local planning policy. It should therefore be refused.

The Victorian Society:

Response dated 02/02/23:

Singleton Gardens is a historic walled garden within the Lincombes Conservation Area. This area is defined by numerous large villas dating from the early C19 onwards, notable examples being Meadfoot Lodge and Singleton which neighbour the site and are Grade II listed. It is likely that Singleton Gardens was built as a walled garden to serve one of these properties and therefore has a historical connection with the nearby listed buildings and the understanding of the development of the Conservation Area.

Historically the gardens contained a well, glasshouses and other ancillary buildings. Currently, a modest dwelling occupies the site. The proposals would see the redevelopment of the walled garden with new dwellings, including a 4-storey building containing 7 apartments, and associated landscaping. This would seriously alter the character of the walled garden, harming its historic legibility in connection to nearby historic villas, and the contribution it makes to the Conservation Area.

The NPPF states:

'Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance.' (para 206)

This proposal would harm the legibility of the Conservation Area and its historic character. We recommend that the proposal is reconsidered and options are explored which would preserve more of the site's character and legibility as a historic walled garden.

Building Control:

Response dated 30/01/23:

For information a new Part R of the Building Regulations came into force in June 2022 covering a requirement for EVCP's to all new buildings and changes of use etc.

Each unit of accommodation, if provided with an associated parking space should have access to a EVCP. It is preferable to have EVCP's outside of covered parking

however where this cannot be facilitated then the EVCP's need to be included within, this is specified in Regulation 44D(4). The requirements of S1 and Regulation 44D are applicable and the agent should refer, this is regarding the required amount of EVCP's for this development.

Regarding the safety, Section 6 of the Approved Document S to Requirement S1 provides the relevant design and installation standards expected for ECVP's. We would expect these to be followed regarding the design, installation and commissioning.

Housing Strategy and Enabling Officer:

Response dated 14/12/23:

The nine dwellings to be constructed within garden of the property will be subject to Policy H2. For schemes of between 6 to 10 dwellings, there is a requirement to provide 15% affordable usually as a commuted sum. This equates to the equivalent 1.35 dwellings. The methodology for calculation of the commuted sum is set out in the Planning Contributions and Affordable Housing SPD.

The applicant has presented a viability assessment which indicates that the development cannot support contributions. This will need to be independently verified and if the development cannot support contributions then the Council should include an overage provision within the section 106 agreement.

Response dated 24/04/23 following an independent viability assessment:

The calculation of the commuted payment due for the scheme is £136,500 as calculated under the 2017 Planning Obligations SDP under transitional arrangements.

The Council has now instructed and received an independent viability assessment of the scheme from our consultant. This assessment asserts that the scheme can support an off-site contribution in lieu of onsite provision of affordable housing of £100,000.

We would therefore advise that the application is only compliant with Policy H2 if the funds available to support a commuted payment in lieu of affordable housing are payable to the Council and secured by way of the section 106 agreement. We are happy to accept a viability review mechanism if the consent is granted and should there be material changes affecting future scheme viability. This mechanism and criterium should be set out within the section 106 agreement.

Planning Officer note:

Following receipt of the independent viability assessment, the applicant submitted a critique of the assessment from their viability expert. The independent assessor subsequently considered this information and a revised estimated CIL liability figure. They concluded that the scheme could support an affordable housing contribution of £65,000 and recommended a late viability review clause.

The Housing Strategy and Enabling Officer has confirmed that a s106 securing £65,000 with a late viability review clause satisfies the affordable housing requirements.

Planning Officer/Principal Planner (Delivery) – commenting on heritage matters:

Response dated 20/01/23:

The site currently contains “other key buildings and building groups of architectural importance or which make a significant contribution to the townscape” as shown on the Lincombes Conservation Area Appraisal (LCAA) mapping and contains prominent walls. The existing rendered wall fronting Meadfoot Sea Road currently contributes negatively to the Conservation Area (CA) by way of its materiality.

Reviewing the historic mapping, the site appears to have contained terraced walled gardens created when the Palk family’s land was divided into plots during the 1830s and 1840s. The gardens are likely to have served as kitchen gardens for a neighbouring original villa.

Whilst the site does contain some features that contribute positively to the CA, overall the site is of relatively low heritage significance. Generally, I agree with the conclusions of the submitted Design and Access and Heritage Statements in this regard.

The evolution of the scheme is welcomed and it appears to have responded to and overcome the issues with previous proposals on this site. The proposal appears to retain key features and would retain the prominent walls. The overall layout and siting of the principal element responds to the typical villa type layout, with space around the building, sensitive proportions, in-keeping with key and important buildings within the CA. The treatment of the elevations and massing have been broken up using a change in materials and form to prevent it from appearing overly bulky and oppressive. The current scheme also retains the ability to view the trees to the rear, enabling it to be assimilated into the background, which is very different to the previous submission.

Undoubtedly the proposal will result in the development of open space within the CA which will have an impact on its setting. With regards to the proposal impact on the setting of the neighbouring listed buildings, this would be negligible due to the development of this part of the CA, the topography of the area and the screening afforded protection due to its location.

In my view, the proposal would amount to less than substantial harm resulting from the development of open space within the CA. I would add that this harm is at the minor end of the scale and has been reduced by the sensitive siting, scale and design of the scheme as a whole. This harm should be assessed as part of the overall planning balance.

Should you be minded to approve the application I would suggest the use of conditions relating to:

- Materials
- Boundary treatment and landscaping
- Securing details of the windows including frame materials and depth of reveals
- Any heritage based benefits the scheme would provide are secured at the earliest possible phase of the development. This could include hard and soft landscaping, tree planting and boundary treatment restoration.

The handling of materials and execution of the detailing will be key with this scheme.

Response dated 08/03/23:

Please see below our comments with regards to the enquiry you have received relating to the potential curtilage listing of Singleton Gardens.

Singleton Gardens consists of 2 parcels of land, forming a series of 4 smaller walled areas set between a number of historic villas, north of Meadfoot Sea Road.

Curtilage listing ordinarily relates/applies to any buildings or structures in reasonable proximity to a listed building, where there is a question relating to the level of protection, if any, the building or structure is afforded, assuming they are deemed to meet the recognised considerations below.

Given the evidence in front of us and using map regression we have noted the interconnection between the Northern parcel of land but not the remaining 3. On this basis and when considering the 4 recognised tests (3 Calderdale + Debenhams ruling) to determine extent of curtilage listing we have the following comments:

- Physical layout. Established parcels of land likely created at the time of the division former agricultural land in the mid 1800s. Boundary treatment and historic accesses do not appear to provide certainty and any indication of ownership at the time of listing of Meadfoot Lodge and Singleton Manor in 1975.
- Ownership. As above, no clear ownership with regards to individual listed buildings.

- Use or function. Historic mapping appears to show some smaller structures, likely glasshouses/greenhouses, within the sites although the number of these appears to have fluctuated over time, with many being removed or demolished as the site has evolved. The use of site as a whole appears to be walled gardens, either separately or connected to each other.
- Ancillary (Debenhams ruling). Should the sites have been gardens ancillary to any of the surrounding villas, this is no longer the case. The two Southern most parcels of land belong to, and are ancillary to, Singleton Gardens.

As identified, there are limited structures on the site and the number of these has fluctuated over time. These fluctuations have occurred since initial construction and also since the listing of the neighbouring properties, Meadfoot Lodge and Singleton Manor.

Should the site now known as Singleton Gardens be considered to form part of the curtilage of either of the adjacent listed buildings, only the walls and structures on the site present at the time of listing would benefit from this level of designation.

Given the above and the uncertainty, we have considered that Singleton Gardens is unlikely to be curtilage listed.

The assessment previously provided, gave a clear assessment of the impacts of the proposal and indicated the harm and benefits the proposal would result in.

Response dated 05/04/23:

I have reviewed the current application, submitted information, additional information from the agent, Mrs Burley, various consultees and my colleague Ross Wise.

For clarity, the Spatial Planning Team benefit from an internal Heritage and Design Team made up of highly experienced and qualified officers in architecture, heritage, planning and urban design. In particular, there are two officers within the team who hold heritage qualifications and were previously in Conservation Officer posts. Heritage comments provided as part of this application have been developed through a collaborative process drawing on the skills of each officer. Whilst there is no currently named Conservation Officer post, these comments are consistent with our approach dealing with heritage matters in the bay.

In terms of the submitted information I would make the following observations:

- The Council has undertaken a broad range of consultation and assessed this appropriately. I am satisfied this process has captured the views required to determine the application.
- The submitted heritage statement meets the necessary tests within the NPPF and provides an appropriate level of assessment and understanding of the site.

- Historic England, the Council's Officers and agent for the application have reached the same conclusions on curtilage and curtilage listing. I have been engaged in this examination process as part of my role within our in-house team.

For further clarification on the use of our in-house team:

In Historic England's 'Managing Significance in Decision Taking in the Historic Environment' *Assessing the proposals*: 25 In deciding applications for planning permission and listed building consent, local planning authorities will need to assess the particular significance of the heritage asset(s) which may be affected by the proposal and the impact of the proposal on that significance reflecting the approach as described in paragraphs 3-5 above. In most cases, to assess significance LPAs will need to take expert advice, whether in-house, from shared services or from consultants. It is good practice to use professionally accredited experts and to comply with relevant standards and guidance (For example, the ClfA Standard and Guidance: Archaeological Advice). To find a list of expert groups, see paragraph 19.

To conclude, we have received an appropriate, consistent level of professional advice from the agent, from Historic England and utilised our own in-house expertise, I do not feel it necessary to add any further comments.

Torbay Council's Senior Environmental Health Officer:

Response dated 13/12/2022:

I would confirm that I have no objections subject to the inclusion of the following condition:

Construction Management Plan:

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

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

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

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Control measures for dust and other air-borne pollutants.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development

SWISCo's Waste Client Manager:

Response dated 12/12/2022:

In response to this consultation request, I would like to request more information about recycling and waste management from the proposed development.

The location of the bin store is ideal for our collection staff, there would need to be flat access with dropped kerbs between the bin store and the place that the collection vehicles pull up alongside Singleton Gardens to collect from the public highway.

The plans seem to show individual sets of bins, recycling boxes and food waste bins. Individual bins are a suitable solution here, but please be aware that where individual bins and boxes are provided, our collection teams would not collect from the bin store and instead residents would need to leave their bins and boxes at the curtilage of the property for collection and then bring them back in. If communal arrangements are used, our collection teams will collect and return the bins and boxes to the bin store, providing they are accessible.

I would like to request waste management contributions for this development in line with the table below. The level of contribution will depend on which type of solution is used here.

WSP on behalf of the Local Highway Authority:

Response dated 12/12/2022:

1.0 DESCRIPTION OF PROPOSAL AND PLANNING HISTORY

1.1. The proposed development site is located off Meadfoot Sea Road and currently comprises of a single residential property and garden. The proposals relate to the formation of seven apartments, two attached dwellings and extensions/refurbishments to an existing dwelling with associated landscaping and access work.

1.2. The site has previously had planning permission refused for the formation of nine apartments and two semi-detached dwellings with access, garages and parking with the demolition of existing outbuildings and alterations and extensions to an existing

dwelling to include a two-storey extension to side (ref. P/2021/0802). The refusal cited no specific highway reasons.

2.0 ACCESSIBILITY

2.1. The site is located off Meadfoot Sea Road approximately 1km south-east from the centre of Torquay. There are footways and street lighting present on Meadfoot Sea Road for the duration of the pedestrian route between the site and Torquay centre. Reviewing the Torbay Cycle Map, it is noted that Meadfoot Sea Road is classified as an advisory cycle route which provides onwards connection to an on-road cycle lane within Torquay.

2.2. There are bus stops located on Meadfoot Sea Road approximately 75m west from the site, served by the Torbay Buses 64 route, which provides an hourly bus service which loops to and from Wellswood. The closest rail station to the site is Torquay Station, approximately 2.3km west. Torquay Station is managed by Great Western Railway and is situated on the Riviera Line. The station provides onward access to Exeter St David's/Exmouth and Paignton approximately every 30 minutes. Torquay Station has 8 bicycle parking spaces.

2.3. It is concluded that the site is located within an accessible location with pedestrian / cycling and public transport infrastructure within the vicinity of the site potentially effectuating a modal shift away from single occupancy car use, thereby reducing the vehicular trip generation associated with the development proposals.

3.0 TRIP GENERATION AND HIGHWAY IMPACT ASSESSMENT

3.1. Due to the small quantum of development proposed, it is considered that the proposed development will not result in a severe impact on the capacity of the local highway network.

3.2. The applicant has not provided a review of the latest available five-year Personal Injury Collision (PIC) data for the highway network surrounding the site as requested at pre-application stage. In order to identify if any trends or clusters of collisions exist, with particular reference to cyclists and pedestrians, this information should be provided.

4.0 ACCESS AND VISIBILITY SPLAYS

4.1. The applicant has proposed that a new vehicular and pedestrian access will be constructed to the site from Meadfoot Sea Road.

4.2. The applicant has submitted a drawing (ref. JG06 Rev:1 23.09.22) which illustrates visibility splays of an 'X' distance of 2.4m and a 'Y' distance of 43m can be achieved in both the primary and secondary directions. This is commensurate with the requirements of a posted speed restriction of 30mph and is considered acceptable.

4.3. Whilst the provided visibility splay demonstrates the visibility to oncoming vehicles, the plan doesn't however provide the likely visibility of oncoming pedestrians along the footway. In order to determine the safety of the access in relation to pedestrians, a vertical and horizontal visibility splay with regards to pedestrians should be provided.

5.0 PROPOSED ACCESS GATES

5.1. The applicant has submitted a drawing (ref. JG06 Rev:1 23.09.22) which illustrates the site access gates opening inwards into the site. This is considered acceptable.

6.0 SWEPT PATH ANALYSIS

6.1. The applicant has submitted a drawing (ref. JG08 Rev:1 23.09.22) which illustrates an estate car accessing the site whilst another estate car is waiting to egress. This is considered acceptable.

7.0 FIRE ENGINE SWEPT PATH ANALYSIS

7.1. The applicant has submitted a swept path analysis (ref. JG07 Rev:1 23.09.22) of a fire engine accessing and egressing the site in a forward gear. This is considered acceptable.

8.0 CAR PARKING

8.1. The proposed development layout has proposed the following car parking and quantum:

- The (existing) Cottage has two courtyard spaces allocated with one Electric Vehicle Charging (EVC) point. (Dwg. 818.10 Proposed site and roof plan).
- Coach House no1 has one garage and one courtyard space allocated with one EVC point.
- Coach House no2 has two courtyard spaces allocated with one EVC point.
- There are seven apartments with seven under-croft parking spaces (7 x 1). Space nos.4 and 7 have EVC points.
- Total of 10 residential units, with 14 parking spaces, 13 allocated and 1 courtyard visitor space / unallocated.

8.2. Space Nos. 3 and 4 are 3.3m width. As these spaces are adjacent to solid structures and therefore require to be a minimum of 3.2m, this width is acceptable.

8.3. The highway authority would normally seek up to 10% disabled spaces. It is assumed that Space no.7 meets the requirement within Appendix F due to the additional space on one side. Confirmation is sought that this is intended to be an accessible space for disabled persons.

8.4. Based upon policy TA3 and Appendix F of the Torbay Local Plan (2012 – 2030) the car park provision is acceptable.

9.0 CYCLE STORAGE

9.1. The applicant has submitted updated layout plans (ref. 818.11 and 818.19, 05.10.22) which identifies the provision of secure and covered cycle storage within the apartments and houses. Seven cycle spaces are provided within the apartment building and two spaces per house, which meets the requirement within policy TA3 and Appendix F of the Torbay Local Plan (2012 – 2030). However, six spaces are

provided by means of vertical racking within the apartment building which may not be suitable for all bike users. It is noted that one cycle space is provided adjacent to allocated car space No.1 which is not vertical. Therefore, alternative provision of cycle storage should be considered to ensure that bike users of all abilities are able to store their cycles.

10.0 REFUSE STRATEGY

10.1. The applicant has submitted a proposed site and roof plan (ref. 818.10, 05.10.22) which illustrates the provision of a bin store to the west of the gated access and the Design & Access Statement 2022 states that vehicle tracking has been updated and concludes that all spaces and layouts can be readily used by refuse vehicles. Vehicle tracking has only been provided for an estate car and a Fire Engine. Swept Path analysis for a refuse vehicle should be provided for review by the highway authority.

11.0 CONCLUSION

11.1. Based upon the information submitted at the time of writing the applicant will be required to:

- o Provide a review of the latest available five-year PIC data for the highway network surrounding the site;
- o Provide a visibility splay plan relating to the visibility of pedestrians from the vehicle access;
- o Confirm an accessible car parking space is provided; and
- o Provide Swept Path analysis drawings for refuse vehicles.

Response dated 10/01/2023 following the receipt of further information:

1.0 BACKGROUND

1.1. A response to this planning application was previously issued by the Local Highway Authority on the 12th December 2022. Within the previous response issued by the Local Highway Authority it was requested that the applicant provide the following additional information in support of the planning application:

- A review of the latest available five-year PIC data for the highway network surrounding the site;
- A vertical and horizontal visibility splay plan relating to the visibility of pedestrians from the vehicle access;
- Confirmation that an accessible car parking space is provided; and
- Provision of Swept Path analysis drawings for refuse vehicles.

1.2. The applicant has since provided an email to the Local Highway Authority (dated 03/01/2023) containing additional information in support of the planning application. This response will consider the information provided in the aforementioned email.

2.0 PERSONAL INJURY COLLISION DATA

2.1. The applicant has provided a review of the latest available five-year Personal Injury Collision (PIC) data for the highway network surrounding the site as requested. The collision data presented has been reviewed and it has been determined that there does not exist any clusters or trends within the collision data. Therefore, the Highway Authority considers that the proposed development will not result in an increase in Highway Safety concerns.

3.0 VISIBILITY SPLAYS

3.1. A plan showing a 2m x 2m pedestrian visibility splay from the site access has been provided (drawing 818.PED), along with comments within the email. The plan and comments provided are accepted by the Highway Authority.

4.0 CAR PARKING

4.1. Confirmation was sought relating to an accessible car park space for disabled users. Additional information provided states that space no7 meets the requirement for an accessible, along with three other car park spaces and therefore it is accepted that accessible car parking spaces are provided within the development.

5.0 REFUSE STRATEGY

5.1. Additional information relating to the waste strategy has been provided and has confirmed that *“waste would be handled from the bin store for collection on the street a short distance away, as with all other properties in the locale”*. Therefore it is accepted that a swept path analysis drawing for refuse vehicles is not required.

6.0 CONCLUSION

6.1. In conclusion, the email provided by the Applicant (dated 03/01/2023) addressed the previously raised concerns and therefore the Highway Authority has no objection to the scheme.

Police Designing Out Crime Officer:

Response dated 30/11/22:

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority the following is to inform the applicant:-

ADQ creates security requirements in relation to all new dwellings. All doors that provide entry into a building, including garage doors where there is a connecting door to the dwelling, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24.

As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company List of Member Companies (Alphabetical). The requirements of SBD are that doors Accredited Product Search for Doors and windows Accredited Product Search for Windows are not only tested to meet PAS 24 (2022) standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.

Secured By Design is a free from charge police owned crime prevention initiative which aims to improve the security of buildings and their immediate surroundings in order to provide safer places and more secure places.

The following comments below are regarding the apartment building.

It is recommended that for the block of flats a visitor door entry system along with an access control system is installed to the entrances, which has a visual as well as audio function. The system should allow the occupants to electronically release the door from their own property. Please note we would not support the use of tradesperson button or time release mechanism due to evidence of unauthorised access to communal developments and anti-social behaviour associated with these.

It is recommended that lobby area is created to be a secure area which prevents onward movement throughout the apartment building. Within this lobby area it would be beneficial to install a mail delivery system for the residents. This should be robust in construction, with the individual letter boxes have a maximum aperture size of 260mm x 40mm, have anti-fishing properties.

Communal areas (such as communal entrance lobbies, landings, corridors stairwell and underground parking) to the apartment building should have 24 hour lighting which is switched using a photoelectric cell. These could be dimmed during hours of low occupancy.

Parking

It is appreciated that the parking provision for the proposed scheme is likely to meet the requirements of local planning policy e.g., one space per apartment but given that each apartment has 2 bedrooms the one space allocated per apartment is likely to prove insufficient and could result in parking elsewhere. The 'elsewhere' has a real potential in creating vehicle and parking related problems which the police can spend a lot of time dealing with.

The lighting within the undercroft parking should be to a standard of BS5489-1:2020. It should provide an even light with no dark areas so that residents feel safe to use it.

To assist with the lighting the walls and ceilings could be painted in a light colour finish to maximise the effectiveness of the lighting.

It would be recommended the internal door giving access from the car park to the lower ground floor lobby area is on the access control system to prevent unauthorised access into the building through via the car park. However, it should have the ability in the event of a fire alarm to unlock to allow for a means of escape if required.

There is a concern regarding the proposed installation of the EV charging points within the undercroft parking, given the potential fire risk from charging electric vehicles within this enclosed space with residential units above it. It must have the necessary fire mitigation services.

Planning Officer Assessment

Key Issues/Material Considerations

1. Policies Relating to Housing Development
2. Design, Visual Appearance and the Character of the Area
3. Heritage
4. Impact on Residential Amenity
5. Impact on Highway Safety
6. Trees
7. Ecology and Biodiversity
8. Flood Risk and Drainage
9. Affordable Housing Contributions
10. Designing Out Crime
11. Low Carbon Development
12. Other material considerations including housing supply and the NPPF

1. Policies Relating to Housing Development

The proposal is for the formation of seven apartments and two attached dwellings with a revised access and parking provision. The proposal includes the demolition of existing outbuildings, namely the greenhouse and a pitched roof outbuilding. Alterations and extensions to the existing dwelling are also proposed to include a single storey and two storey extension.

There is a pressing need for homes in Torbay. The Government's Standard Method Local Housing Need figure indicates a need for 605 dwellings a year. The Housing and Economic Needs Assessment (2022) indicates a comparable level of need and that there are around 1600 households on the waiting list for housing. At April 2023, the Council's recent housing delivery was about 75% of its requirement and the

Council is only able to demonstrate about 2.2 year's supply of deliverable housing sites. This is a significant shortfall.

Policies SS12, SS13 and H1 of the Local Plan seek to provide sufficient housing in Torbay and to maintain a five year land supply. Policies SS13 and SS3 of the Local Plan set out a "presumption in favour of sustainable development" for housing separate to the NPPF. This is returned to later in relation to the NPPF and operation of the Presumption in Favour of Sustainable Development; but it is noted that the Local Plan contains policies that seeks to give favourable consideration to new housing (subject to other considerations) separately from the NPPF.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. Proposals for new homes on unallocated sites, including the renewal of existing permissions, will be assessed on the basis of set criteria, proportionate to the scale of the proposal.

It is worth noting that although the proposal is of relatively modest scale, which will affect the weight attached to the shortfall in the overall balancing exercise. However, a significant proportion of Torbay's housing arises from sites of fewer than 10 dwellings every year (the average 2012-23 is 121 dwellings a year on sites of 1-9 dwellings, of which 111 a year are from Torquay). It will be important in terms of ongoing supply that small sites continue to arise, (subject to detailed assessment of their impact).

Policy SDT1 of the Local Plan sets a target of 3955 dwellings for the Torquay Neighbourhood Plan area over the period 2012-30 (about 220 a year), with the main foci being the town centre and Waterfront and Torquay Gateway. The Lincombes is not specifically mentioned in Policy SDT1 but all development is required to (inter alia) conserve or enhance the historic and natural environment.

The site is not allocated for housing in Policy TH1 of the Torquay Neighbourhood Plan. Policy TS4 of the Neighbourhood Plan directs development towards brownfield sites. It only supports development of greenfield sites where allocated or the loss is required to meet the "strategic economic policies within the Local Plan".

This broad position on housing is subject to a detailed assessment of the proposal's performance against policies in the Local and Neighbourhood Plan on a wider range of matters. This carried out below.

2. Design, Visual Appearance and the Character of the Area

Paragraph 126 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 134 states that 'development that is not well designed should be refused,

especially where it fails to reflect local design and government guidance on design'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The application site includes a modest, two storey, residential dwelling with large grounds including a dilapidated greenhouse and a disused outbuilding. The dwelling has uPVC openings and poor quality extensions. The grounds of the plot gradually raise up from south to north forming terraces separated by stone walls. The natural stone walls define the site due east, west and north, whilst the southern boundary, along Meadfoot Sea Road, is a rendered wall. The existing dwelling occupies the south-western corner of the site. The building is built in the boundary walls and has an existing vehicular access at the south-east corner off Meadfoot Sea Road.

The site is within the Lincombes Conservation Area and is adjacent to 'Singleton' (Grade II listed) and opposite 'Palm Grove' (Grade II listed) which are listed buildings. The Grade II listed Meadfoot Lodge and Grade II listed wall and gate piers to the west of Meadfoot Lodge are located to the north west of the site. Within the Lincombes Conservation Area map, the dwelling, greenhouse and an outbuilding are noted as other key buildings of architectural importance which make a significant contribution to the townscape. Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's Conservation Areas.

The proposal is for formation of seven apartments and two attached dwellings with a revised access and parking provision. The proposal includes the demolition of existing outbuildings, namely the greenhouse and a pitched roof outbuilding. Alterations and extensions to the existing dwelling are also proposed to include a single storey and two storey extension.

The proposed apartment block would be four storeys in height, with a maximum approximate height of 12.2m from the south elevation, with the lower ground floor built into a re-built stone boundary wall which runs horizontally through the site and would be sited in the rear section of the plot. The proposed apartment block would have an asymmetrical appearance. The south elevation features the lower ground floor level in limestone, with breaks in the stone for the vehicular access to the undercroft parking area, the pedestrian access to the flats and openings serving the lower ground floor level flat. This elevation features two predominant two storey rendered blocks with openings serving the flats. A central vertical block finished in zinc effect vertical cladding is proposed alongside two recessed blocks, also finished in zinc effect vertical cladding at the top, second floor level. The rear north elevation features a similar

arrangement but due to the topography, the lower ground floor level is built into the land. The eastern side elevation features a lower ground floor level of limestone which adjoins the attached dwelling proposed to the south of the apartment block. The upper ground floor and first floor feature render whilst the recessed second floor level features zinc effect vertical cladding. The western side elevation is built into the topography of the land with three, two storey rendered blocks apparent at upper ground floor and first floor level and a recessed second floor level finished in zinc effect vertical cladding. Powder coated aluminium framed doors and windows are proposed throughout the building with dark grey pressed metal rainwater goods. Glass and stainless steel balustrading is proposed around the building serving patio/terraces formed at upper ground floor and second floor level and Juliet balconies at first floor level.

The two proposed three bedroom attached dwellings would have two storeys and a single storey section attaching to the boundary wall facing Meadfoot Sea Road, whilst the northern elevation of the dwelling will attach to the rear apartment block and boundary wall. The proposed dwellings would have a flat roof with one integral garage serving the northern dwelling (C.H 1). The two storey section would have an approximate maximum height of 6.05m, whilst the single storey section would have an approximate maximum height of 3.15m. The proposed finish of the dwellings would include limestone at ground floor level, with the first floor finished in zinc effect vertical cladding, with powder coated aluminium openings and solid vertical larch plank doors serving the integral garage. The single storey flat roof will feature a sedum roof.

The proposal also includes alterations and extensions to the existing dwelling 'Singleton Gardens' to include a two storey extension to the northern side elevation and a single storey extension to the eastern front elevation of the dwelling, including a new pitched roof which will replace a section of existing flat roof. The proposal includes a render finish, slate roofs and powder coated aluminium openings to the existing dwelling.

The proposal seeks to block up the existing vehicular access and retain a pedestrian access in this location whilst forming a new central vehicular access with a set back gate for vehicle entry and a separate pedestrian access gate. The existing rendered wall with concrete capping facing Meadfoot Sea Road will be replaced with a stone wall. Internally within the courtyard area, a bin store will be formed alongside a courtyard parking area with pockets of planting and vegetation to break up and soften the appearance. The retained dwelling and two attached dwellings will feature private outside amenity space. The courtyard will lead to an undercroft parking area serving the apartments and a separate pedestrian entrance into the apartment building. The apartments will be served by a number of private terrace areas and gardens in addition to a shared garden at the rear.

National and local planning policy emphasises the importance of design. It should be noted that the applicant entered into two pre-application enquiries and two Torbay Design Review Panel workshops (the reports from the Design Review Panels can be read in full on application P/2021/0802) prior to submitting application P/2021/0802 for the *formation of 9 apartments & 2 semi-detached dwellings with access, garages & parking. Demolition of existing outbuildings. Alterations & extensions to existing dwelling to include 2 storey extension to side.* This application was refused by the planning committee in March 2022 (the reasons for refusal can be read in the 'relevant planning history' section of this report). Following the refusal, the applicant entered into a further pre-application enquiry and the current proposal has sought to overcome concerns raised by the Design Review Panel, the reasons for refusal of P/2021/0802 and comments made at the pre-application stage.

This part of Meadfoot Sea Road is characterised by the most significant buildings being 'Italianate' in their architectural language, with complex accretive massing, heavy articulated eaves detailing and multiple localised symmetries. The plot to building relationships and ratios are noteworthy with large villas set back from the main frontage and sitting within generous gardens, visible verdant landscape and orientated somewhat to gain sea views. The streetscene and locality benefits from mature trees, including an off-site tree (T7 London Plane) owned by Torbay Council, adjacent to where the proposed access would be to serve the development.

The proposed apartment block refused via P/2021/0802 was considered to be similar to that discussed at the Design Review Panel second workshop, where concerns were expressed that the south-western elevation presents a symmetrical façade that leads to an incongruous set of relationships that does not generate a satisfying architectural design and leads to a "*deceitful composition*". The Panel's report stated that "*The lack of variation in height / massing seemed to be a distinct departure from the character of the Conservation Area*". The committee report of P/2021/0802 considered that the proposed apartment block would have an unrealistic and unbroken scale and massing that would be highly visible from within the Lincombes Conservation Area. It would present itself as an overtly dominant mass within the locality which lacks attention to detail and high quality design.

The revised design put forward with this current application has presented an asymmetrical design with variations in height, massing and material composition. The articulation within the building design is considered to help to reduce the bulk and massing and has moved away from the previously presented symmetrical appearance. The overall datum ridge height at 54.50 is lower than that of the adjacent Meadville at 58.81 and Osbourne House. The adjacent White Lodge has a ridge height of 50.07 and the apartment block will therefore at its highest point sit 4.43m higher. Given the topography, the road slopes from west to east, and the height of the apartment block will follow a natural stepping down in height, and the height is therefore considered to fit comfortably within the streetscene.

The proposal would retain the feature of prominent walls within the site by utilising a limestone wall running east to west in the design of the apartment block which will replace the existing internal dividing wall. The existing rendered wall with concrete capping facing Meadfoot Sea Road would be replaced with a stone wall. The existing wall varies in height with a staggered section next to the existing dwelling. The height of the existing wall varies from approximately 3.52m high at its highest point next to the dwelling and measures approximately 1.8m high next to the existing entrance pier. The replacement wall will measure approximately 2.2m high next to the existing dwelling and varies in height as it follows the topography. The replacement wall is considered to result in an improved visual appearance to the streetscene due to the use of materials. The overall layout and siting of the principal elements of the development are considered to respond to the typical villa type layout, with space around the building, sensitive proportions, in-keeping with key and important buildings within the Conservation Area. The proposal also retains the ability to view the trees to the rear, enabling it to be assimilated into the background. Overall, the size, scale, appearance and massing are considered to be acceptable for the context of the site.

The two proposed attached dwellings are modern in design and appearance, spanning two stories but with a single storey section adjacent to Meadfoot Sea Road. The lower single storey height helps to reduce the dominance of the building from the streetscene and attaching to the boundary wall and utilising matching local limestone walling aids in assimilating the building into the site context. Whilst the design is modern in appearance, this acknowledges and uses design features such as the materials and massing features of the apartment block which results in an appearance of a smaller block, related to the apartment block in design characteristics, but ancillary in scale. The attached dwellings would therefore appear coherent and directly related to the apartment block structure within the site. The existing dwelling on the site directly abuts and adjoins the boundary wall facing Meadfoot Sea Road and the attached dwellings mimic this design. The result is a courtyard framed by the retained dwelling and attached dwellings which lead to the larger, central apartment building. Overall, the size, scale, appearance and massing of the two attached dwellings are considered to be acceptable for the context of the site and would not result in an overly dominant built form when viewed from the streetscene. The siting and layout have allowed a courtyard parking area which features pockets of planting which significantly break up the built form and hard surfacing within the site. All the units have sufficient garden space or access to open space, and it is considered that the balance of hard and soft landscaping is acceptable.

The alterations and extensions to the existing dwelling 'Singleton Gardens' are considered to result in an acceptable size, scale and visual appearance. The existing two storey flat roof element is considered to result in a poor visual appearance and the alteration and extension of this existing element to form a pitched roof is considered to appear visually coherent. Whilst the extension will result in a higher ridge height, in

this instance given the flat roof sits above the eaves level of the existing pitched roof, and the pitched roof sits adjacent to Meadfoot Sea Road, a steeping up of height further into the plot is considered to be an acceptable design rationale. The existing single storey flat roof element on the eastern front elevation will be rebuilt and extended with a single storey pitched roof extension with overhang. This appears subordinate to the main two storey elements of the building and the design as a whole is considered to result in an acceptable visual appearance.

The development as a whole will not be dominant and visually intrusive and the overall size, scale, massing and visual appearance is considered to result in an acceptable visual appearance that retains local distinctiveness and sense of place and is in keeping with the character and appearance of the area. The development as a whole is considered to accord with Policy DE1 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

Planning conditions are recommended to secure landscaping, suitable boundary treatments, materials and window and door details to ensure that a suitable form of development is undertaken and to secure high quality details to reflect the context. A condition removing certain permitted development rights is also recommended given the sensitive location of the site and the potential for these works to negatively impact on the character and appearance of the development.

3. Heritage

Section 72 of The Planning (Listed Buildings and Conservation Areas) Act 1990 (1990 Act) sets out the general duty as respects Conservation Areas, which requires Local Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Similarly, Section 66 of the 1990 Act sets out the general duty as respects listed buildings, which requires Local Authorities to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Paragraph 199 of the NPPF states that:

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.

The site is situated within the Lincombes Conservation Area. Within the Lincombes Conservation Area map, the dwelling, greenhouse and an outbuilding are noted as other key buildings of architectural importance which make a significant contribution to the townscape. The site is adjacent to 'Singleton' (Grade II listed) and 'Palm Grove' (Grade II listed) is located on the opposite side of Meadfoot Sea Road and to the north

west the nearby Meadfoot Lodge and wall and gate piers to the west of Meadfoot Lodge are Grade II listed. The buildings listed as 'other key buildings of architectural importance which make a significant contribution to the townscape' within the Lincombes Conservation Area map are considered to constitute non designated heritage assets due to their contribution to the Conservation Area and these include, but are not limited to, Osbourne House, Delamere Court and Marstan Hotel. The application has been supported by a heritage significance assessment which analyses the site, the historic environment records, the heritage value and significance of the site and assess and discusses the design response put forward, with reference to policy and heritage considerations.

During the course of the application Historic England were approached with a request to add the site to the Register of Parks and Gardens of Special Historic Interest in England. A decision was made on the 26th January 2023 not to list the site. Historic England in their consideration confirmed:

The walled garden at Singleton Gardens historically had some connection to one of the grand mid-C19 villas nearby, most probably the house known as Singleton. The walled gardens would have yielded vegetables and top-fruits for the owners, and the historic presence of glasshouses perhaps suggests a desire to impress through the cultivation of tropical crops. This connection is of some local interest, and the surviving boundary walls and open spaces expressed through their former use contribute to the appearance and interest of the Lincombes Conservation Area. However, the layout and features shown on mapping from the C19 to the post-war period have largely been lost. The garden structures in the south-west corner of the southern garden have been altered and converted to a modern house. The 'icehouse' has some architectural merit, but it has also been altered and alongside vagaries about its purpose, it cannot itself have any claims to special interest. Additionally, the separation in ownership in the post-war years has divorced the garden of any contextual connection to Singleton. Any natural or biodiverse interest which the gardens have is not relevant to this listing assessment. Therefore, judged against the criteria for listing the walled garden and its associated structures at Singleton Gardens, Torquay do not merit listing for the following principal reasons:

Lack of architectural interest:

- * most of the garden features and structures, which would have been standard in a small walled garden such as this, have been lost or altered;*
- * the 'icehouse' has some architectural merit, but alterations and uncertainty of use reduces any claims to special interest.*

Lack of historic interest:

- * any historic association and connection with Singleton has been lost;*

** the contribution of the garden to this area of Torquay and its villa residences is of local rather than national interest.*

CONCLUSION The walled garden and its associated structures at Singleton Gardens, Torquay, dating to the mid-C19 with alterations and losses, do not meet the criteria for listing in a national context.

Following this decision, a further request was made to Historic England to reconsider listing the site. A decision was made on the 11th July 2023 not to list the site with the following comments made:

Singleton Gardens is understood to have been constructed between 1836 and 1861 and is therefore part of the initial period of villa development in Torquay. Other villas on the Palk estate with walled gardens, such as at the neighbouring Osborne Villa, and at Vomero (1838) in the Warberries area, are shown on the 1880 OS map but they were not of a comparable size. These and other smaller walled gardens have largely been lost to development pressures, so the survival of the boundary walls to two of the three compartments of the walled garden for Singleton is a rarity for the area.

However, any significance of the walled garden as a surviving C19 walled garden needs to be carefully balanced against its surviving fabric and layout. The structures that do survive (walls and bothy structure) do not display particularly interesting or unusual elements of construction or function. Other elements including the glasshouse bases and gardener's cottage are now fragmentary, as successive changes have been made to their rather modest historic fabric. The layout of the walled garden and its inter-relationship with its immediate surroundings has also largely been lost reducing the impact of the walled garden within its marine landscape and therefore any claims to interest for this. It does not survive as a particularly good or well preserved example of a walled garden.

Claims have been made for the significance of Torquay's mid-C19 planned suburban villa landscape as part of the national trend in the development of seaside resorts in the C18 and C19, and that the construction and survival of the walled garden at Singleton contributes to this significance. It is clear that the scale and quality of the villa developments in the Warberries and Lincombes areas of Torquay over a short period of time is notable, and this interest is reflected in those areas being designated as separate conservation areas, within which many of the C19 villas and their associated boundary walls and gate piers are listed. Smaller details such as street signs, granite kerbs, cobbled surfaces all contribute to the history and character of the conservation area, as do the boundary walls and open spaces of the walled garden at Singleton. Torquay's place within the contextual history of suburban coastal and urban

villa developments of the time is undeniably of importance, but it is not considered that this was uniquely innovative, particularly at the level as is claimed. The recognition of this at conservation area level is regarded as being an appropriate designation.

Claims for historic association have also been made for the walled garden. The only known significant figure associated with Singleton and its walled garden is Reverend Canon Alan Campbell Don KCVO (1885-1963), who, with his brother was put in trust of Singleton in the early 1940s, selling the garden in 1945. At no point did the Dons live at Singleton and therefore no claims to special associative historic interest can be made. Wider claims have been made for the town with various notable visitors and personalities attached but none of these relate directly to Singleton or its walled garden.

In terms of the significance of the suburban villa landscape in Torquay, this interest is recognised by many of the villas being listed at Grade II, and the designation of conservation areas. The history of the walled garden associated with Singleton adds an important layer to the understanding of the area, although little specific documentation is currently known to survive. Whilst it is recognised that Singleton Gardens is an unusual survivor, any claims to rarity or uniqueness are rather unaccomplished. With this in mind, and considering the considerable losses to its historic fabric, associated structures and layout, the walled garden known as Singleton Gardens is not considered to meet the criteria for Registration.

CONCLUSION

After examining all the records and other relevant information and having carefully considered the historic interest of the case, the criteria for the registration of the walled garden associated with the property known as Singleton Gardens, Torquay, Devon are not fulfilled.

REASONS FOR DESIGNATION DECISION

The walled garden associated with the property known as Singleton Gardens, Torquay, Devon is not recommended for inclusion on the Register of Historic Parks and Gardens for the following principal reasons:

Historic interest:

- * the features of the walled garden are modest for this type of structure and gardens of the period and it does not survive as a notable example of a particularly important phase of garden development;*
- * Singleton and its walled garden contribute to an understanding of the early-C19 development of Torquay and the walled garden is recognised as being an uncommon survivor, however this is not sufficient to raise the level of interest to that required for national designation.*

Degree of survival:

** the fabric of the walled garden has been significantly eroded by cumulative post-war changes and loss;*

** the loss of the pathway layout within the walled garden and removal of the access from Singleton has reduced the understanding of the patterns of movement around the garden.*

The Council has assessed if the site should be considered curtilage listed and has considered the detailed representations received as part of the consultation period in its consideration on this issue, including the comments made by Historic England.

Section 1 (5) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that any object or structure within the curtilage of a listed building which, although not fixed to the building, forms part of the land and has done so since before 1st July 1948, shall be treated as part of the building. The object or structure is considered to be part of the listed building and is listed (these structures are often called "curtilage listed"). This only applies to objects or structures ancillary and subordinate to the listed building itself (*Debenhams plc v Westminster City Council* (1987) AC 396).

In the case of *Methuen-Campbell v Walters* [1979] QB 525 the court held that property will be within the curtilage of another property if it is so intimately associated as to form part and parcel of it and this will depend on the circumstances of every case. The curtilage may be confined to a small area around the principal property but not necessarily so and again this will depend on all the circumstances, including the nature and location of the properties.

In *Attorney-General, ex rel Sutcliffe, Rouse and Hughes v Calderdale Borough Council* [1983] JPL 310, the Court of Appeal concluded that the following factors should be taken into account in determining whether or not a structure or object was within the curtilage of the principal listed building:

- The physical layout of the listed building and the structure or object.
- The ownership of the listed building and the structure or object, both past and present.
- The use or function of the listed building and the structure or object, both past and present.

In *Hampshire CC v Blackbushe Airport Limited* [2021] EWCA Civ 398, the court held that the land must be so intimately connected with the building as to lead to the conclusion that the former is in truth part and parcel of the latter.

The question is whether the structures within the application site were within the curtilage of any listed building when that building was listed.

Singleton was Listed Grade II on 10 January 1975. The listing states that it preserves its C19 garden plot. Meadfoot Lodge was listed Grade II on 2 May 1974. The listing entry states that the building was already in use as holiday flats.

Singleton Gardens consists of 2 parcels of land, forming a series of 4 smaller walled areas set between a number of historic villas, north of Meadfoot Sea Road. On the basis of the evidence we have, our conclusions on the curtilage listing of the site are as follows:

Meadfoot Lodge:

Singleton Gardens does not appear to be within the curtilage of Meadfoot Lodge. Meadfoot Lodge is recorded as being in use as flats when it was listed. There is no known connection between Singleton Gardens and Meadfoot Lodge on the basis of ownership, physical layout or use/function. As noted below it appears that Singleton Gardens was sold off from Singleton in 1945.

Singleton:

- Physical layout: Reviewing the available historic documents, the title plan to Singleton indicates that it has laid out gardens and appears unconnected with Singleton Gardens. It is also separated by a belt of mature trees indicating the length of time this separation has been in place. There is a linear common boundary running from Lincombe Drive to Meadfoot Sea Road which would also appear to show separation. The issue is whether the layout means Singleton Gardens is so intimately associated as to form part and parcel of Singleton. Reviewing the layout of both sites (whether or not used together or in common ownership) it appears that the layout does not demonstrate intimate association. The listing of Singleton refers to the retention of its garden plot. It does not refer to any walled garden greenhouses or market garden. Whilst not conclusive this strongly indicates that Singleton Gardens was not considered to be part of the listing of Singleton.

- Ownership: The title to Singleton contains the following entry: The land has the benefit of the following rights reserved by a Conveyance of Singleton Gardens adjoining the south-east corner of the land in this title dated 14 September 1945. The title to Singleton Gardens contains a corresponding entry that the land is subject to the provisions of the 1945 conveyance. This shows that Singleton Gardens was sold off in 1945 prior to Singleton being listed.

- Use or function. Historic mapping appears to show some smaller structures, likely glasshouses/greenhouses, within the sites although the number of these appears to have fluctuated over time, with many being removed or demolished as the site has evolved. The use of site as a whole following its sale in 1945, appears to have been walled gardens completely separate to Singleton.

Only ancillary structures would be curtilage listed. As mentioned above the use as a walled garden appears to be independent of any listed building. In addition, Singleton Gardens itself is an independent dwelling. If the use commenced prior to the listing of Singleton then it would not be curtilage listed in any event.

On the basis of the evidence we have, we consider that the structures in Singleton Gardens are not curtilage listed.

For clarity, listed building consent is required to carry out works to demolish, alter or extend a curtilage listed building, if the works would affect the character of the principal listed building as a building of special architectural or historic interest. To proceed without consent, if it is required, is a criminal offence. If listed building consent is required the developer will have to apply for that separately. Whilst we consider that the structures in Singleton Gardens are not curtilage listed any uncertainty as to the precise extent of the curtilage of Singleton does not prevent the Council from determining this application. We have concluded (below) that the proposed demolition and alteration of these structures is considered to be acceptable given their state of disrepair and low level of special interest and historic fabric, and that the proposal's impact on the setting of Singleton is considered to be negligible.

The outbuildings proposed for demolition include the greenhouse, which the accompanying heritage assessment states it dates to the period between 1933 and 1953. The timbers do not suggest anything like the kind of quality that one might expect of Victorian glasshouses and its orientation and juxtaposition with the cottage suggest a more modern use. It is of limited heritage value and has been badly repaired and altered over the course of the 20th century. Within the wider grounds, a number of brick and stone outbuildings appear to be late 19th- early 20th century in date, extended and altered with modern roofs and in various states of dilapidation. The small outbuilding on the west boundary is also proposed to be demolished. The heritage assessment states that this may have at one time been a pen or lean-to structure affixed to the wall and is visible on early mapping. However, its present roof is shallow pitched and tiled, with rebuilt gables. The walls are in poor condition and appear to be added to the earlier boundary. The building is of limited heritage value and may be retained and restored, or removed to better reveal the garden plot walls behind. Historic England in their consideration of the listing note that *'The structures that do survive (walls and bothy structure) do not display particularly interesting or unusual elements of construction or function. Other elements including the glasshouse bases and gardener's cottage are now fragmentary, as successive changes have been made*

to their rather modest historic fabric. The 'icehouse' [outbuilding on the west boundary] has some architectural merit, but it has also been altered and alongside vagaries about its purpose, it cannot itself have any claims to special interest.' The proposed demolition of these structures is therefore considered to be acceptable given their state of disrepair and low level of special interest and historic fabric. The replacement of the horizontal stone dividing wall with a rebuilt stone wall, which the development will be built into and attach to, is considered to retain the characteristic of the walled garden and separation within the site, therefore not resulting in a detriment to the historic significance of this feature. The northern, eastern and western boundary walls will be retained. Objectors have stated that the perimeter wall along Meadfoot Sea Road contributes to that vista and character of the area. The southern boundary wall facing Meadfoot Sea Road will be replaced with a stone wall which is considered to result in an improved visual appearance to the streetscene within the context of the Conservation Area.

Overall, it is not considered that the development will have a significant impact on heritage issues related to the loss of the walled garden and landscaping, loss and alterations to stone walls and the perimeter walls and any historic links to Singleton Manor.

Objectors suggest that the development will interrupt the character and appearance of the streetscene and erode the quality of this part of the Conservation Area and that it will impact on the open vista. The Victorian Society has noted that the development would seriously alter the character of the walled garden, harming its historic legibility in connection to nearby historic villas, and the contribution it makes to the Conservation Area. They recommend that the proposal is reconsidered, and options are explored which would preserve more of the site's character and legibility as a historic walled garden.

Explanatory notes 4.4.24 of Policy SS10 of the Local Plan states that 'the integration of Torbay's heritage assets with modern development forms an important part of the maintenance and development of Torbay's unique character. Urban renewal, regeneration, and preservation of the historic environment can give rise to competing pressures. Careful development management is essential to ensure heritage assets and key features are conserved, while ensuring good quality development which contributes to the community good.' The proposal as a whole will result in the development of garden space within the Conservation Area which will have a negative impact, and resultant harm to this designated heritage asset. The existing open space within the site, in addition to the host dwelling are considered to positively contribute to the significance of the Conservation Area. Whilst the development of this garden which provides an open aspect is considered to result in harm to Conservation Area, the development as a whole is not considered to be overly dominant, nor visually intrusive and the overall size, scale, massing and visual appearance, including that of the apartment block, attached dwelling, extended host dwelling and associated works

within the site and to the boundary are considered to result in an acceptable visual appearance that retains local distinctiveness and sense of place and is in keeping with the character and appearance of the area. The harm to the Conservation Area is therefore considered to be limited to the loss of the open aspect of the garden. The proposal is considered to result in sympathetic development which contributes to the local character and distinctiveness of the area whilst retaining the ability to view the trees to the rear, enabling it to be assimilated into the background. Overall, the size, scale, appearance and massing are considered to be acceptable for the context of the site and the proposal is considered to accord with Policy SS10.6 and SS10.8 of the Torbay Local Plan, however the proposal will fail to conserve and enhance the Conservation Area contrary to Policy SS10.3 of the Torbay Local Plan.

With regards to the proposal's impact on the setting of the nearby listed buildings, including, but not limited to, Palm Grove, Singleton and Meadfoot Lodge, this is considered to be negligible. Given the separation distance and intervening features, including that of Meadville, from the application site to Meadfoot Lodge and the listed walls and gate piers to the west of Meadfoot Lodge, there is considered to be a limited appreciable relationship or intervisibility. The proposal is therefore considered to maintain the setting of these listed buildings/structures. Similarly, given the separation distance, topography and landscape features including tree screening from the application site to Singleton, there is considered to be a limited appreciable relationship or intervisibility. The proposal is therefore considered to maintain the setting of this listed building. The application site and proposed works will be visible from Palm Grove and from the streetscene when considering the setting of Palm Grove. The new stone southern boundary wall is considered to improve the setting of this listed building. Whilst the development will be visible from and will be perceived in the context of Palm Grove, given the sensitive siting, scale and design of the scheme as a whole, the proposal is not considered to result in harm to the significance and setting of Palm Grove. The proposal is therefore considered to accord with Policy SS10.1 of the Torbay Local Plan.

The proposal is considered to have an acceptable impact to the setting of the nearby non designated heritage assets due to the sensitive siting, scale, massing and visual appearance of the development as a whole.

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Lincombes Conservation Area. The proposal has followed a sequence of refinements and responded to comments relating to heritage by officers and the Design Review Panel (DRP) following the pre-application enquiry process, DRP and the reasons for refusal of application P/2021/0802. 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 its surroundings. These include sympathetic materials and architectural treatment, and

the proportions of each element have been fully considered and are considered to assimilate into the site to ensure the proposed built form is in keeping with the surroundings. Overall, it is considered that the proposal would amount to less than substantial harm resulting from the development of the garden which provides an open aspect within the Conservation Area and this harm is considered to be at the minor end of the scale as it has been reduced by the sensitive siting, scale and design of the scheme as a whole. In addition, the existing rendered wall with concrete capping facing Meadfoot Sea Road would be replaced with a stone wall which will result in an improved visual appearance to the streetscene and consequent enhancement to the Conservation Area.

Paragraph 202 of the NPPF states:

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.

Given the loss of garden which provides an open aspect within the Conservation Area, it is considered that the proposal will not sustain and enhance the Lincombes Conservation Area, contrary to Policy SS10 of the Local Plan. Explanatory notes 4.4.30 of Policy SS10 of the Local Plan states that 'Policy SS10 seeks to ensure that heritage assets are safeguarded for the future, and where possible enhanced both for their own merits and as part of regeneration projects. It is also sufficiently flexible to ensure that any harm to the significance of a historic asset can be weighed against the wider benefits of an application, for example social, economic and environmental enhancement'.

Objectors have questioned the quality of the heritage assessment and criticised internal officer advice on conservation, assessment and appraisal. This was dealt with in the consultation response dated 05/04/23 (located in the summary of consultation responses above). Officers are satisfied that we have the necessary expertise within the department, coupled with advice via the listing consideration process from Historic England, to deal with the heritage issues raised by this development.

The harm to the Conservation Area and the public benefits of the proposal will be weighed up in the planning balance and conclusion sections of this report as required by Policy SS10.7 of the Local Plan and the NPPF.

4. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development proposals should be designed to provide a good level of amenity for future residents and will be assessed in terms

of the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution, provision of useable amenity space, and an adequate internal living space.

Internal Living Space

Policy DE3 of the Local Plan requires that new residential units provide adequate internal floor space in order to achieve a pleasant and healthy environment. The Neighbourhood Plan is largely silent on the matter of amenity. The NPPF 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.

Policy DE3 sets out the minimum floor space standards for new dwellings and apartments. The proposed residential units feature the following approximate floor areas:

Apartments:

1. 4 bed (inc. one single) – 122.57sqm
2. 3 bed (inc. two single) – 86.15sqm
3. 3 bed – 111.28sqm
4. 3 bed (inc. two single) – 86.23sqm
5. 3 bed – 111.37sqm
6. 3 bed (inc. two single) – 71.35sqm
7. 2 bed (inc. one single) – 63.87sqm

Attached dwellings:

1. 3 bed – 141.39sqm
2. 3 bed (inc. one single) – 98.75sqm

Existing dwelling:

- 3 bedroom (plus study) – 123.69sqm

All units comply with the minimum floor space requirements apart from apartment unit 6. Unit 6 features a floor area of approximately 71.35sqm, whereas the minimum floor area set out in Policy DE3 states that a flat of this size should be a minimum of 74sqm. Whilst the floor area of this one unit is marginally below the recommended floor area, the unit is considered to have a usable layout for all day to day needs, adequate light and outlook and a private outside terrace. Therefore, whilst the floor area is slightly below standards, the quality of the internal environment is considered to be satisfactory.

All other units across the site are considered to provide a good quality internal environment for future occupiers with habitable rooms served by adequate light and outlook and layouts set out in a functional manner. Therefore, the proposed residential accommodation is considered to comply with Policy DE3 of the Local Plan in this

regard.

External Amenity Space

Policy THW4 of the Torquay Neighbourhood Plan states that all new houses shall have not less than 20 square metres of outside space and must have garden areas with not less than 10 square metres space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. Flats or apartments must have either a balcony of not less than 10 square metres and as appropriate to the size of the home or a communal green area of not less than 10 square metres per unit within the curtilage of the property.

The proposed layout provides a communal outdoor amenity space for the apartment block as well as providing apartments 1, 2, 3, 6 and 7 with private outside space. The provision exceeds the requirements of Policy THW4.

The two proposed attached dwellings and the existing dwelling would also benefit from their own individual outdoor amenity spaces which exceed the requirements of Policy THW4.

Neighbour Amenity

To the west/ south west of the proposed apartment block is the block of flats; Meadville. The block of flats also features a garage block in the south east corner of the plot directly adjacent to the existing host dwelling on the application site. The proposed apartment block, at its closest point above ground level, would be sited approximately 21.17m from the closest point of the Meadville block of flats. The closest point is the projection at upper ground floor and first floor level of the proposed apartment building, and this is not sited directly opposite the closest section of Meadville. The closest section of the proposed apartment building directly adjacent Meadville has a separation distance of approximately 22.35m. Given the separation distances between the proposed apartment building and Meadville, coupled with the orientation and siting of the buildings and the boundary treatments and existing vegetation, the proposed apartment building is not considered to result in a loss of amenity to occupiers of these flats. Given the siting and orientation of the proposed apartment building, in combination with the landscaping and boundary treatment, the proposal is not considered to result in an unacceptable level of overlooking and loss of privacy to private outside areas associated with the flats.

The extension to the host dwelling Singleton Gardens will extend the dwelling along the shared west boundary with Meadville and the ridge height of the extension will be higher than the adjacent wall and garages. Given the extension will sit adjacent to the existing block of garages with hardstanding parking area to the west of the garages, combined with the separation distance to the nearest habitable room within Meadville, the extension and alterations to the host dwelling are not considered to result in a loss of amenity to the occupiers of the flats and the associated grounds.

The proposed apartment block will be sited approximately 29.3m at its closest point at lower ground floor level to the dwelling; White Lodge. Given the separation distances between the proposed apartment building and White Lodge, coupled with the orientation of the buildings and the boundary treatments and existing vegetation, the proposed apartment building is not considered to result in a loss of amenity to occupiers of this dwelling. Given the separation distance of approximately 31.1m from the nearest proposed attached dwelling to White Lodge, the proposal is not considered to result in a loss of their amenity. Given the separation distance and boundary treatment, the attached dwellings are not considered to result in an unacceptable level of overlooking or otherwise loss of amenity to White Lodge's outside amenity space.

The proposed apartment block and attached dwellings would primarily face towards the internal access driveway and landscaping serving Osborne House rather than the private outside space directly next to the dwelling which is likely to be the most utilised. As such the proposal is not considered to result in an unacceptable level of overlooking and loss of privacy to private outside areas associated with this dwelling.

The properties to the south, including Delamere Court and Palm Grove are considered to be a sufficient distance away given the separation distance and Meadfoot Sea Road being in-between that there would not be a detrimental impact on the amenity of neighbours, in terms of their outlook, privacy, or access to natural light.

Overall, given its siting, scale, and design of the proposal, it is considered that the proposal would not result in any unacceptable harm to the amenities of any nearby neighbour, in terms of their outlook, privacy, overbearing impact or access to natural light. More generally in terms of the finished development the residential use aligns with the residential uses nearby and the additional residential units would not result in undue noise or general disturbance for existing occupiers in the area.

A planning condition is recommended to secure a Construction Method Statement prior to the commencement of the development to ensure there is oversight of the demolition and construction period.

5. Impact on Highway Safety

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy

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. Policy TH9 goes on to state that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel.

The proposal includes a new access point from Meadfoot Sea Road and provides a total of 14 on-site parking spaces.

The Local Highway Authority have been consulted on the application. They have confirmed that the applicant has submitted a drawing which illustrates visibility splays of an 'X' distance of 2.4m and a 'Y' distance of 43 metres can be achieved in both the primary and secondary directions. This is commensurate with the requirements of a posted speed restriction of 30mph and is considered acceptable. A plan showing a 2m x 2m pedestrian visibility splay from the site access has been provided and this is accepted by the Highway Authority. The proposed plans also illustrate that the site access gates which open inwards into the site which is considered acceptable. The swept path analyses demonstrate that large vehicles including fire vehicles can access and egress the site in a forward gear, which is considered to be acceptable.

Appendix F of the Local Plan states that the proposed development should provide one off-street parking space per apartment and two off-street parking spaces per dwelling, totalling 13 off-street parking spaces, plus an additional parking space for visitors. The parking provision of 14 spaces is therefore in accordance with the Local Plan. Appendix F states that parking spaces should be 4.8 metres by 2.4 metres and the adopted Highways Standing Advice states that where a parking space is adjacent to a solid obstruction such as a retaining wall, the minimum width of a parking space should be 3.2 metres and should not be reduced.

In terms of the undercroft parking, the proposal details four 5.1 metre by 2.5 metre spaces for parking spaces 2, 5 and 6. Parking spaces 3, 4 and 7 have been enlarged to 5.1 metres by 3.3 metres and space 1 measures 5.1 metres by 2.5 metres with an adjacent width of 1.15 metres to accord with and exceed the standing advice guidance in relation to parking next to walls. Space 7 would fulfil the requirements of a disabled space. The undercroft parking also accommodates a 6.3 metre back-to-back distance between opposing parking spaces for manoeuvring which is acceptable.

Garages should have a minimum internal measurement of 6 metres by 3.3 metres to qualify as a full parking space. The proposed integral garage serving the northern attached dwelling adheres to this requirement with an internal space of 7 metres by 3.3 metres.

The courtyard parking serving the two attached dwellings, the host dwelling; Singleton Gardens and the 1 visitors space all meet the minimum dimension set out in Appendix F.

Whilst concerns relating to the amount of parking provision have been raised by the Police Designing Out Crime Officer, the provision is in accordance with Policy TA3 and Appendix F of the Local Plan and the Highways Engineer has confirmed no objection to the proposal. A planning condition is recommended to ensure the parking provision is provided prior to occupation.

Appendix F also states that 1 electric vehicle charging point (EVCP) should be provided for each dwelling and 20% of parking spaces for flatted development should have EVCP's. Each flat is served by an EVCP, and 1 EVCP has been provided for each of the attached dwellings and the host dwelling resulting in 10 EVCP's across the site which exceeds the requirements of Appendix F of the Local Plan. A planning condition is recommended to secure the details and installation of the charging points prior to occupation. The Police Designing Out Crime Officer has raised a concern regarding the proposed installation of the EVCP's within the undercroft parking area, given the potential fire risk from charging electric vehicles within this enclosed space with residential units above it and has noted it must have the necessary fire mitigation services. The Council's Building Control Officer has confirmed that Part R of the Building Regulations came into force in June 2022 covering a requirement for EVCP's to all new buildings and changes of use etc. Regarding the safety, Section 6 of the Approved Document S to Requirement S1 provides the relevant design and installation standards expected for EVCP's. The Officer has therefore confirmed that they would expect these to be followed regarding the design, installation and commissioning. Therefore, providing the building regulations requirements are followed, there is no safety reason for not allowing EVCP's within the undercroft parking area.

In terms of sustainable modes of transport, Appendix F states that at least 2 covered and secure cycle storage spaces should be provided per dwellings and at least 1 covered and secure cycle space should be provided per flat. The proposed plans detail internal cycle storage within the two attached dwellings, an external area for bike storage under the single storey canopy of the extended host dwelling and cycle storage within the lower ground floor of the apartment block in addition to an area of cycle storage in the undercroft parking area.

The Highways Engineer has confirmed that seven cycle spaces are provided within the apartment building and two spaces per house, which meets the requirement within policy TA3 and Appendix F of the Torbay Local Plan. However, six spaces are provided by means of vertical racking within the apartment building which may not be suitable for all bike users. It is noted that one cycle space is provided adjacent to allocated car space No.1 which is not vertical. Therefore, alternative provision of cycle

storage should be considered to ensure that bike users of all abilities are able to store their cycles. It is considered that there is sufficient space to provide suitable bike storage and therefore a planning condition is recommended to secure the final details of the proposed bike storage to ensure compliance with policy and to ensure its installation prior to first occupation.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes. The proposal provides bin storage within a communal bin storage area within the courtyard.

SWISCo's Waste Client Manager has confirmed that the location of the bin store is acceptable for collection staff. There would need to be flat access with dropped kerbs between the bin store and the place that the collection vehicles pull up alongside Singleton Gardens to collect from the public highway. The plans show individual sets of bins, recycling boxes and food waste bins. Individual bins are a suitable solution here, but the collection teams would not collect from the bin store and instead residents would need to leave their bins and boxes at the curtilage of the property for collection and then bring them back in. The agent has confirmed that waste and recycling will be presented for collection on the street and the waste vehicles will therefore not need to access the site. The Highways Engineer has confirmed this is acceptable.

A planning condition requiring the installation of the bin storage prior to first occupation is therefore recommended to ensure adequate facilities are provided.

Subject to the aforementioned planning conditions, the proposal would have an acceptable impact in terms of highway safety and waste, and would comply with Policies TA1, TA2, TA3 and W1 of the Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

6. Trees

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The site is protected by a 1973.01 Area TPO and lies within the Lincombes Conservation Area. Both the TPO and Conservation Area provide statutory protection to the trees impacted by the development.

The Council's Green Infrastructure Manager and Senior Tree Officer has been consulted on the proposal and has stated that the submitted arboricultural information correctly identifies the trees and categorises them accordingly.

The Officer has confirmed that tree T6 is dead and the removal of T6 has been specified. Apple trees T2, T3, T5, T10 & T16 are live trees and are actively managed by pruning consistent with the Officer's knowledge of fruit production. Image 2 within the arboricultural impact assessment (AIA) clearly show two cut apple tree stumps, one of which is hollow. The Officer has confirmed they are unable to confirm if the removal of the trees was pre-empted by a failure or damage incident.

A representation has been received from the People's Trust for Endangered Species (PTES) indicating that the site meets the criteria for Traditional Orchard Priority Habitat being 5 or more standard fruit trees in a group managed without chemicals. The Orchard Biodiversity Officer on behalf of the PTES states that there has been an orchard on this site for well over a century, so adding to the importance of the habitat. They comment that the 5 or 6 existing fruit trees are likely to have veteran features such as crevices in the bark and hollowing heartwood, so should be treated as "ancient or veteran trees" as per paragraph 180(c) of the NPPF.

The Senior Tree Officer notes they have carried out a desktop assessment on the 13th April 2023 using the Defra Magic Map service. This has not identified any published records referring to the apple trees being within the priority habitat (Traditional Orchard). The Officer confirms they are in agreement with the Aspect report findings related to the estimated age of the apple trees (Mitchell methodology) and concur that these trees are not 'veteran' trees based on their age or attributes. Based on the Officer's experience of working within orchards in the south-west of England, they also estimated their age in the 25 – 40 year range.

The Devon County Council Ecologist (DCC Ecologist) has confirmed that the proposal will lead to the loss of 6 fruit trees aged between 20-40 years old, on amenity grassland of low ecological value. Clarification has been provided by the consultant ecologist and Council's Senior Tree Officer which confirms that none of the fruit trees onsite are ancient or veteran and do not constitute irreplaceable habitat as per the NPPF. The fruit trees have limited arboricultural value (defined as category C and U) and the habitats onsite are not deemed by the consultant ecologist to be currently species rich or of high ecological value. The proposal will result in the loss of these fruit trees and there is no opportunity given the size of the site and number of houses proposed to avoid this loss. Evidence from tithe maps shows that there has been an orchard on this site for over a century. When compared with the JNCC Habitat description for the Traditional Orchard priority habitat, it is clear that the site does not represent priority habitat. This is because the site has been historically managed as a garden and does not possess other habitat features associated with priority habitat orchards (for example scrub or a pond), and crucially, the site does not include a permanent grass sward that is usually grazed by cattle or sheep or cut for hay. When taking the above

into account, the DCC Ecologist agrees with the consultant ecologist and Senior Tree Officer that the site is not an example of priority habitat.

Devon CPRE have objected to the proposal, noting it does not accord with national or local planning policy and that the NPPF highlights that the environmental objective of sustainable development should be pursued in a “positive way” (paragraphs 8 and 9), and that this site has been identified by the community as having natural and historic built environment qualities worthy of protection and enhancement, which should guide decision making.

The Senior Tree Officer has confirmed that the development proposal requires the removal of a number of trees and shrub planted areas. These have been identified in the Tree Protection Plan (Aspect Ref: 05942 TPP 13.03.23). Trees specified for retention are clearly indicated within areas enclosed by tree protection measures with works areas requiring arboricultural method statements (AMS) identified. Tree removals and their relative impact on amenity and local landscape character have been assessed in the Aspect AIA in sections 6.3 – 6.5 and the Officer is in agreement with this assessment. T4 (Chusan Palm) has been identified for transplanting and an arboricultural method statement (AMS) will be required for this operation with a transplanting location identified on site. Proposed works within the root protection area of T7 will require further detailed discussions to ensure the AMS is properly specified and structured to ensure this high-quality tree remains undamaged during any potential development process. Crown management works to T7 have been specified to address overhang above the proposed development area. Tree management works have also been specified to G11 to prevent future spatial relationship conflicts with the proposed flats. These works are broadly acceptable and accord with good arboricultural practice. G9 has been identified for thinning from a group of 6 Chusan palms to 3 retained specimens. This work is broadly acceptable as a management objective. The Officer concludes that based on the scale and layout of the proposed development and the information provided, there are no arboricultural objections to the application. The proposed layout and elevations will not lead to future conflict or pressure to fell or prune G11 or W15. The proposed vehicle access will require cyclical maintenance to ensure high-sided vehicles can access the property. This management work can be addressed through existing tree maintenance contracts in place with the Council following the initial pruning being undertaken as part of the development. The spatial relationship of T7 to the existing dwelling is established.

The Officer recommends that planning conditions should be applied to secure the pre-commencement installation of tree protection measures and the submission of an arboricultural method statement for works within the root protection area of T7. T4 will require an arboricultural method statement for transplanting, replanting and aftercare. With the addition of these recommended conditions the proposal is considered to have an acceptable impact on trees in accordance with Policy C4 of the Local Plan.

7. Impact on Ecology and Biodiversity

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Paragraph 174).

The application is supported by a Preliminary Ecological Appraisal, a Bat Emergence/Activity Survey and a Reptile Presence/Likely absence Survey all dated May 2021.

Following comments from the DCC Ecologist and comments from members of the public including Dartforest Ltd, a Preliminary Ecological Appraisal Update (February 2023) and Bat Emergence/Activity Survey (May 2023) were submitted.

The Preliminary Ecological Appraisal Update and Bat Emergence/Activity Survey reports confirmed that the survey visit did not observe any bats or evidence of bats in either building, although the potential roost features (prf's)/potential access points (pap's) as identified in 2021 are still present. As a result, both buildings are still considered as having bat roost potential. An emergence survey conducted in 2021 did not observe any bat emergence and the update survey conducted on the 3rd May 2023 observed no bats emerging from either building. A single Common pipistrelle (*Pipistrellus pipistrellus*), was observed foraging intermittently within the curtilage for the entire survey. As the survey did not observe any bats emerging from either building, the report concludes that no further surveys are required to prove their presence/likely absence. There is still habitat present which is suitable for Slow worms (*Anguis fragilis*); a presence/likely absence conducted in 2021 observed one juvenile Slow worm and assessed the site as having at least a low breeding population. Mitigation and compensation measures are recommended to ensure the legislation which protects them is not contravened. No evidence of nesting birds was observed although they will need to be considered typically between March-August inclusive if found nesting in buildings or nesting in a location where they are likely to be disturbed. There are no priority habitats within the survey area and there was no evidence of other protected species such as Badger (*Meles meles*).

The DCC Ecologist has considered the information submitted by the applicant's consultant ecologist and the information submitted via objections, including that from Dartforest Ltd. As noted in the *trees* section of the report, the DCC Ecologist does not believe that the site meets the criteria for a priority habitat orchard and no other priority / protected species associated with the orchard trees and grassland will be impacted (e.g. lichens). The trees onsite to be lost to development also do not contain features

suitable in supporting bat roosts. The habitat onsite is not of significant wildlife value and therefore the habitat loss associated with this application is not deemed by the DCC Ecologist to be contrary to local or national planning policy or legislation. Habitat compensation is possible as set out within the application and the landscape plan submitted by the applicant (Drawing Number: Drawing-818-M1 Rev D), shows the inclusion of 5no. Malus species to provide fruit and habitat to replace the fruit trees to be removed by development (including those that are dead). This landscape scheme is deemed sufficient in mitigation against the loss of the fruit trees onsite and at the very least provides a no net loss in biodiversity. The long term management of the proposed landscape features should be secured via a LEMP and a condition is recommended to ensure this.

A single Common pipistrelle was observed foraging intermittently within the curtilage for the entire bat emergence survey and foraging and commuting bats may be negatively impacted by this development. The DCC Ecologist confirms that replacement bat foraging habitat is to be provided through the landscaping scheme which is suitable for the bat species recorded utilising the site and a condition requiring detail of external lighting is proposed to ensure an acceptable impact on bats. The reports submitted by the consultant ecologist are considered to be satisfactory as they have provided sufficient ecological rationale for the deviation away from published guidance in this instance. It is also noted that the site temperatures during the survey (as detailed in Page 6 of the submitted ecology report) were 13C at the time of survey, which is deemed suitable and in line with guidance.

Vegetation removal and building demolition should be undertaken during winter, outside the bird nesting season unless the developer has been advised by a suitably qualified ecologist that the works will not disturb nesting birds and a condition is recommended to ensure this is adhered to.

3 integrated multi-species bird boxes, 6 integrated sparrow terraces and 1 integrated swift box are recommended to ensure further bird nesting opportunities and this will be secured by condition.

The 2023 walkover showed the site remained suitable for reptiles. Reptile refugia were placed amongst habitat suitable for reptiles on April 14th 2021. The refugia (corrugated tin sheets) were placed and left in situ for a four day period before the first survey date of 20th April 2021 with another four surveys carried out on the 26th, 28th, 30th & 5th May 2021. The survey found a single juvenile Slow worm and as a result the survey area is confirmed to be supporting at least a breeding population of Slow worms. Reptiles are assumed present in all suitable habitat. A translocation of reptiles will occur as per the reptile mitigation strategy report and the DCC Ecologist has confirmed this is acceptable and can be secured via condition.

Given the location of the site and surrounding land use and nature of the proposals, it is deemed unlikely that badgers or their setts would be impacted by the proposals. The consultant ecologist has confirmed that both the original PEA and the recent site visit did not observe any evidence of use by Badgers within the site boundary or in any area to be impacted by proposals. The site has tall stone walls around its perimeter which do not allow access for them and therefore it is deemed very unlikely that badgers will be impacted. The DCC Ecologist recommends the covering of trenches/suitably positioned planks to permit escape and capping of pipework overnight to prevent entrapment which will need to be secured via a CEMP condition. It is also recommended that a condition is added, that no more than 6 weeks prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures is submitted to the Local Planning Authority.

Both the DCC Ecologist and Senior Tree Officer have confirmed that the landscaping scheme, which has been revised during the course of the application to alter planting in accordance with the recommendations of these Officers, is acceptable and will result in a good quality scheme which softens and integrates the buildings into the surrounding area, whilst providing ecological mitigation and no net loss in biodiversity. A condition is therefore recommended to secure this landscaping to ensure it successfully establishes and is retained.

With the conditions recommended, the DCC Ecologist confirms that it is their view that there are no ecological policy or legislative reasons for refusal of this planning application and the proposal is considered to accord with Policy NC1 of the Local Plan and Policy TE5 of the Torquay Neighbourhood Plan and the NPPF.

8. Impact on Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment. The Council's Drainage Engineer has been consulted on the scheme. The Officer originally noted that further information was required as the detailed drainage scheme submitted related to the previously proposed development.

Further information was subsequently submitted to address the Officer's comments and having considered this revised information, the Officer has confirmed that providing the surface water drainage is constructed in accordance with the submitted documents, there are no objections on drainage grounds or flood risk to planning permission being granted for this development.

A planning condition is therefore recommended to secure the surface water drainage and with the addition of this condition the proposal is considered to accord with Policy ER1 of the Local Plan.

9. Affordable Housing Contributions

Paragraph 64 of the NPPF states that provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). The Planning Contributions and Affordable Housing SPD (2017 and 2022) have agreed to apply the NPPF threshold as a material consideration, despite the starting point being Policy H2 of the Local Plan. The current proposal is major in nature, as the new floor area created exceeds 1,000m², and therefore it triggers the requirement for affordable housing contributions in Policy H2 of the Local Plan.

The proposal falls within the threshold for affordable housing contributions as outlined in Policy H2 of the Local Plan which seeks affordable housing contributions on greenfield sites of three dwellings or more. For a net increase of 9 dwellings, it would have an affordable housing target of 15% which is usually sought through a commuted payment.

The Council's Housing Strategy and Enabling Officer has confirmed that the calculation of the commuted payment due for the scheme is £136,500 as calculated under the 2017 Planning Obligations SDP under transitional arrangements.

The applicant has submitted a viability assessment which concludes that it is not viable to provide affordable housing contributions. At the expense of the applicant, this information has been independently assessed. The conclusion of the independent assessment was that the scheme can support a contribution of £65,000. The report recommends that a late viability review clause is added to the s106 to allow gross development value to be reassessed at the completion of the proposed scheme.

The applicant has agreed to a s106 legal agreement to secure the required contribution and therefore the proposal is considered to accord with Policy H2 of the Local Plan and the NPPF, which allow for viability considerations to be taken into account.

10. Designing Out Crime

Policy SS11 of the Local Plan seeks that development proposals should help to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy TH2 of the Torquay Neighbourhood Plan states that new development should provide for a safe

environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

The proposal does not include a scheme of designing-out crime measures. Therefore it is considered that a planning condition should be employed to secure a scheme of such prior to occupation. Subject to the use of this condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and TH2 of the Torquay Neighbourhood Plan.

11. Low Carbon Development

Policy SS14 of the Local Plan seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 of the Local Plan states that the Local Plan will seek to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited. All major development proposals should make it clear how low-carbon design has been achieved, and how the following sequential energy hierarchy has been applied in doing so. Proposals should identify ways in which the development will maximise opportunities to achieve the following:

1. Conserve energy by reducing energy demand through siting and design. This includes the use of building orientation, layout and landscaping to optimise solar gain, ventilation and cooling;
2. Use energy efficiently within the fabric of the building;
3. Incorporate the use of decentralised heat, cooling and power systems; and
4. Use on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

The applicant has submitted a completed Torbay Sustainability Checklist. A number of sustainability measures are outlined within this document including that the development will prioritise a 'fabric first', passive approach. The reuse of local stone from the site has been adopted within the design, reducing off site transport and carbon emissions. Where required, new stone will be sourced locally. Existing boundary walls will be retained, with stone reused where discrete demolition is required. The central stone wall dividing the former garden plots will be reused on site reducing the amount of new material required. The sensitive restoration and retrofitting of the existing premises (Singleton Gardens) will substantially improve the energy efficiency of this building. This lowers embodied carbon by reusing the existing structural shell. The passive solar design of spaces will allow sunlight into living rooms. Bedrooms are prioritised at the rear (north) side to create cooler, more temperature stable rooms. This also means that daylighting opportunities are focused more to rooms requiring high levels of task lighting. All fabric will meet or exceed modern elemental U value and Psi value requirements. Spaces have been designed for

passive solar control and to make use of high thermal mass for temperature lag time effect. Private gardens face south east and south west allowing a variety of potential shading options in peak summer time. Bedrooms are prioritised at the cooler rear of the site, shaded by orientation and trees. This creates a more comfortable temperature for sleeping.

The proposals exceeds the Appendix F requirements for EVCP, with 1 charging point provided per unit which will encourage low carbon electric car usage. Also, the new development will promote healthy living by securing suitable storage areas for bikes to give the future occupants a chance for active and healthy living.

A planning condition is recommended to ensure that the development adheres to the measures stated within the submitted Torbay Sustainability Checklist. With the addition of this condition the proposal is considered to accord with Policies SS14 and ES1 of the Local Plan.

12. Loss of a community facility and potential use of site for horticulture

Paragraph 93 of the NPPF states that:

To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:

(a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;

(b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;

(c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;

(d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and

(e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.

An application to register Singleton Gardens as an Asset of Community Value has been rejected by the Council but it is still necessary to consider the objections that have been received related to the loss of potential use as a community garden, and for associated community projects, that the proposal will not add to the local community and that the site should be restored for use for horticulture or as a community garden.

The site is privately owned and is not currently in use for community purposes or for horticulture. The planning history shows that development proposals have been promoted since 2019. It is unclear when any substantive community or horticultural use ended before 2019. Singleton Gardens has been a private house with a large garden for some time. Both the horticultural use and any community use appear to have been minor. Reference is made to fruit and vegetables being able to be purchased from a shelf behind the door on Meadfoot Sea Road (no doubt like many proprietors selling surplus produce by the roadside). Any community use appears to have ended many years ago. There is no policy requirement for a community use or horticultural use in the area. There does not appear to be a realistic prospect of the site being used for community purposes or for a horticultural use in the future.

13. Other material considerations including housing supply and the NPPF

Consideration of Compliance with Policy H1 of the Local Plan:

Policy H1 states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other Policies in this Plan. Policy H1 continues, proposals for new homes on unallocated sites will be assessed on the following criteria, proportionate to the scale of the proposal:

1. The need to provide a range of homes, including family homes, affordable homes, and opportunities for self-build homes, to meet the full objectively assessed needs as far as is consistent with other policies in the NPPF, Local Plan and neighbourhood plans;

Comment: The proposal seeks permission for a range of homes and apartments (a mixture of two (1x), three (5x) and four (1x) bedroom apartments) and three dwellings (3 bedrooms) and will provide a contribution to affordable housing. It is considered that this criteria is met.

2. The maintenance of a rolling 5 year supply of deliverable sites;

Comment: The Council cannot demonstrate the maintenance of a 5 year supply of deliverable sites.

3. The opportunity to create mixed, balanced and prosperous communities, including employment provision, with good access to social and environmental infrastructure;

Comment: The development will provide a range of unit sizes within an accessible location (1km from the centre of Torquay) with pedestrian / cycling and public transport infrastructure within the vicinity of the site. It is considered that this criteria is met.

4. The creation of high quality living environments, including the protection of the amenity, recreation opportunities and access to facilities of all residents;

Comment: The development will provide a high quality living environment close to the centre of Torquay and Meadfoot Beach, whilst protecting amenity. It is considered that this criteria is met.

5. The capacity of physical, social and environmental infrastructure, including highways and sewerage, to accommodate development;

Comment: The development is acceptable in terms of any impact on infrastructure (see comments on highways and drainage above) given its small scale and its proximity to the services in Torquay town centre. Objectors have mentioned the impact on the NHS but the development is very small scale and is considered unlikely to have any material impact. It is considered that this criteria is met.

6. The objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas;

Comment: Development in the curtilage of a dwelling is defined in the NPPF as being a greenfield site. However, the site is within the built up area and affects an existing building whose lawful use is as a dwellinghouse. Whilst the proposal does not utilise brownfield land it provides homes within the built up area, thereby helping to create prosperous and liveable urban areas. The proposal is not considered to conflict with this criteria.

7. The landscape and biodiversity impacts of the proposal and the objective to achieve a net gain in biodiversity;

Comment: The proposal is considered to have an acceptable impact on trees and a suitable landscaping scheme has been put forward which is considered to integrate the development into the surrounding area. The DCC Ecologist has confirmed that the proposal will provide appropriate ecological mitigation and no net loss in biodiversity, confirming it is their view that there are no ecological policy or legislative reasons for refusal of this planning application. Whilst a quantified level of net gain has not been specified, given no net loss will occur, the proposal is not considered to conflict with this criteria.

8. The objective to reduce the need to travel by car, whilst making appropriate arrangements for vehicle ownership;

Comment: Parking is policy compliant and EVCP's in excess of policy requirements are proposed. The site is in an accessible location (1km from the centre of Torquay) with pedestrian / cycling and public transport infrastructure within the vicinity. It is considered that this criteria is met.

9. Consistency with other Policies in the Local Plan and neighbourhood plans.

Comment The proposals are consistent with the Local Plan and Neighbourhood Plan Policies except in relation to the loss of garden space which provides an open aspect within the Conservation Area, which will not sustain and enhance Lincombes Conservation Area, contrary to Policy SS10 of the Local Plan.

Sustainability

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental. Each of which shall be discussed in turn:

The Economic Role

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings are 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 site is not located in a core tourism investment area and impacts from the development on tourism are considered to be negligible.

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 principal 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 residential units to be provided must carry weight in this balance. The weight attached to the shortfall is a matter for the decision maker, acting reasonably. Because

the application is for only 9 dwellings, but there is a significant shortfall, it is recommended that moderate weight be given to the boost in housing supply.

The proposal will secure £65,000 towards affordable housing to meet the housing needs of local people.

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, for reasons set out in this report there is considered to be less than substantial harm to the identified heritage asset of the Lincombes Conservation Area. This harm is considered to be at the minor end of the scale.

Other elements that are considered to be especially relevant to the proposed development are impacts on trees, biodiversity and drainage. A landscaping scheme has been submitted which results in no net loss of biodiversity and the proposal also provides low carbon and energy efficiency measures. These matters have been considered in detail above and weigh in favour of the proposal.

The proposed development is located in a sustainable location within close proximity to local amenities and public transportation links. This weighs in favour of the proposal.

It is concluded that the environmental impacts of the development, due to the adverse impact on the heritage asset weigh against the development, however the positive elements of the proposal in terms of a sustainable location, low carbon and energy efficiency measures, landscaping and drainage weigh in favour.

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

S106:

Policy H2 of the Local Plan states that developments of over 3 residential units on greenfield sites should provide 15% affordable housing. The applicant has agreed to a S.106 legal agreement to secure £65,000 towards affordable housing contributions.

CIL:

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm.

The estimated CIL liability is £116,690.73. This figure is indexed linked and the final figure will be calculated on the day of the decision.

An informative can be imposed, should consent be granted, to explain the applicant's/developer's/ landowner's obligations under the CIL Regulations.

CIL is a "Local Finance Consideration" relevant to determining applications. However, in the officer's assessment, it is not a determining factor (either way) in the planning balance assessment below.

EIA/HRA

EIA:

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

HRA:

Not applicable.

Planning Balance

This report gives consideration to the key planning issues, the merits of the proposal and development plan policies.

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.

Development Plans often contain policies that pull in different directions and it is sometimes difficult to come to a view whether a proposal is in accordance with the development plan "taken as a whole". Whilst the proposal is supported by policies in the Local Plan that seek to boost housing supply, there are conflicts with the historic environment (Policy SS10 of the Local Plan). Whilst the harm to the character and appearance of the Conservation Area has been assessed as being "less than

substantial” it is sufficient to render the proposal not in accordance with the development plan.

As noted above, the Council has less than 5 years housing land supply and on this basis the development plan must be “deemed” to be out of date. At 2.17 years supply, the shortfall is serious and must be given significant weight in the planning balance. However, the proposal is for only 9 dwellings, which reduces the weight that should be given to the proposal, and this weight is considered to be moderate. Out of date policies can still carry weight in the planning balance, but in practice attention shifts to other material considerations, especially the Presumption in Favour of Sustainable Development which is set out in paragraph 11(d) of the NPPF.

Paragraph 11 of the NPPF states:

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

For decision-taking this means:

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

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date [footnote 8], granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [footnote 7]; or

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

The first issue is whether the application of NPPF policies related to heritage assets provides a clear reason for refusing the development.

Paragraph 197 of the NPPF states:

In determining applications, local planning authorities should take account of:

(a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;

(b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and

(c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 199 of the NPPF states:

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.

Paragraph 202 of the NPPF states:

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.

When taking account of the Government's objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with the acknowledged important contribution that small sites can make to meeting the housing requirement of an area and the Council's housing land supply situation, the cumulative public benefits of the proposed scheme attract moderate weight. On that basis, although the proposal amounts to about 1.2% of the homes that the Standard Method require every year ($9/(605+20\%)$), there is a case to afford it more weight given Torbay's reliance on small urban sites.

Great weight should be given to the conservation of designated heritage assets. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Lincombes Conservation Area. However, in this case the harm identified to the designated heritage asset of the Lincombes Conservation Area from the proposal is assessed as the minor end of less than substantial harm.

The public benefits in the form of the economic and social benefits include the economic growth and associated economic benefits to the construction industry from the proposed development, the proposal would also result in additional disposable income from the occupants. The proposal would provide housing where there is a lack of 5 year housing land supply and this would be located within a sustainable location. The proposal would also make a £65,000 contribution to affordable housing provision via a commuted sum payment secured via a s106. Other matters that weigh in favour include a landscaping and drainage scheme and the proposal promotes low carbon and energy efficiency measures in the building construction and promotion of EVCP and cycle storage.

The development of the garden which provides an open aspect within the Conservation Area will result in less than substantial harm to the Conservation Area

however the development put forward is considered to be sensitively designed in terms of layout, siting, massing and appearance which limits the harm caused.

Paragraph 202 of the NPPF indicates that proposals that result in less than substantial harm to the significance of designated heritage assets should be weighed against the public benefits of the proposal, including where appropriate securing its optimal viable use. The level of harm identified is less than the threshold that would constitute a “clear reason” for refusal under paragraph 11(d)(i) of the Framework and the accompanying footnote 7.

Attention then turns to Paragraph 11(d)(ii) which directs decision makers to grant permission unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the framework taken as a whole. This can include a consideration of development plan policies.

On balance, the public benefits of the scheme as a whole, when weighed against the level of harm caused, are considered to justify the proposal and the proposal is considered to represent sustainable development when considering the Local Plan, Neighbourhood Plan and NPPF taken as a whole as the adverse effects of granting planning permission would not significantly and demonstrably outweigh the benefits.

Other than the harm to the Conservation Area, there are no other adverse impacts of granting planning permission which would significantly and demonstrably outweigh the benefits of the development.

In addition, the public benefits are a material consideration which weigh in favour of granting planning permission notwithstanding conflicts with some aspects of the development plan.

The Draft NPPF

For completeness, it is noted that the Government published a draft NPPF in December 2022, which was accompanied by a Written Statement by Michael Gove. The Government also published its Long term Plan for Housing in July 2022. These changes could have a significant effect on the operation of five year housing supply and the weight given to Neighbourhood Plans. The above does complicate the situation, since government policy pulls in different directions. However, the 2021 NPPF remains on the Government’s website with a statement that it “sets out the government’s planning policies for England and how they are expected to be applied”. The Council has not had formal notification from DLUHC or other government body that the 2021 NPPF has been replaced. It is understood that the 2022 Framework will not be published until after the Levelling Up and Regeneration Bill receives Royal Assent.

On this basis, it is recommended that the council could not be unduly criticised if it continues to follow advice in the 2021 NPPF until it is formally replaced, as set out in this report.

Conclusions and Reasons for Decision

The Council cannot currently demonstrate a 5-year housing land supply, as sought by Government, and the proposal will help with the delivery of housing. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development. Local Plan policies SS3, SS13 and H1 also place importance on maintaining five year housing supply. The provision of housing is a benefit, which officers have given moderate weight within the overall planning balance. In the absence of 5-year housing land supply the NPPF advises that the policies most important for determining the application should be deemed to be out of date. The proposal causes less than substantial harm to the character and appearance of the Lincombes Conservation Area. However, this level of harm has been assessed by officers to constitute a lower level of harm than would constitute a “clear reason for refusal”. In reaching this judgement regard has been had to the LPA’s legal duty of paying special attention to the desirability of preserving or enhancing the character or appearance of the area.

Paragraph 11 (d)(ii) of the NPPF states that where the policies which are most important for determining the application are out-of-date, permission should be granted unless 'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole'. It should be noted that the absence of a 5 year housing supply, and the extent of the shortfall, principally sets a higher benchmark to resist development.

When weighing the public benefits of the scheme against the less than substantial harm identified to the Lincombes Conservation Area, it is concluded that the benefits outweigh the minor level of less than substantial harm caused. As such it is recommended that planning permission be granted.

Officer Recommendation

Approval: Subject to;

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

The completion of a Section 106 Agreement to secure affordable housing contributions of £65,000 with the addition of a late viability review clause to allow gross development value to be reassessed at the completion of the proposed scheme.

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. Landscape and Ecological Management Plan (LEMP)

Prior to the commencement of development (including demolition and ground works) or vegetation clearance works a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The content of the LEMP shall be prepared in accordance with the specifications in clause 11.1 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- a) Description and evaluation of features to be managed.
- 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 the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

No dwelling shall be occupied until the approved legal and funding mechanism(s) by which the long-term implementation of the approved LEMP will be secured with the management body(s) responsible for its delivery have been put in place and evidence of this has been provided to the Local Planning Authority.

Reason: In the interests of the amenities of the area and biodiversity in accordance with Policies DE1 and NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and paragraphs 58, 109 and 118 of the NPPF.

These details are required pre-commencement as specified to ensure that biodiversity is not harmed by building operations or vegetation removal.

2. Construction Ecological Environmental Management Plan (CEEMP: Biodiversity)

Prior to the commencement of development including ground works or vegetation clearance a Construction Ecological Environmental Management Plan (CEEMP: Biodiversity) concerning the site shall be submitted to and approved in writing by the Local Planning Authority. The CEEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities and identification of stages of works.
- b) Identification of "biodiversity protection zones".
- c) Details of working hours; Details of all plant and machinery to be used during site clearance and construction stage, including an inventory of all Non-Road Mobile Machinery (NRMM); Details of temporary lighting used in construction of for security reasons.
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) The times during construction when specialist ecologists need to be present on site to oversee works.
- g) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- i) Use of protective fences, exclusion barriers and warning signs.
- j) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.

The approved CEEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason: In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and paragraphs 109 and 118 of the NPPF.

These details are required pre-commencement as specified to ensure that biodiversity and protected species are not harmed by building operations or vegetation removal.

3. Construction Method Statement

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust (and other airborne pollutants) and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 08:00 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- j) Procedures for maintaining good neighbour relations including complaint management.
- k) 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.

Reason: To safeguard the amenity of the locality in accordance with Policy DE3 of the Torbay Local Plan.

These details are required pre-commencement as oversight of the development period is required from the outset.

4. Tree protection measures

Prior to the commencement of development hereby approved, the protective measures as stated in the approved annotated tree protection plan '05942 TPP 13.03.23' shall be implemented in full.

The Local Planning Authority is to be advised in writing no less than two weeks prior to development commencing of the fact that the tree protection measures as required are in place and shall include photographic evidence.

Reason: To ensure that the trees are protected from potentially damaging activities in accordance with Policies NC1 and C4 of the Torbay Local Plan and Policy TE5 of the Torquay Neighbourhood Plan.

This is a condition precedent because the works comprising the development have the potential to harm retained trees. Therefore these details need to be agreed before work commences.

5. Arboricultural method statement

No development shall commence until a Detailed Arboricultural Method Statement ("AMS") following the recommendations contained within BS5837:2012 for works within the root protection area of T7 and the transplanting, replanting and aftercare of T4 has been submitted to and approved in writing by the Local Planning Authority. The Detailed Arboricultural Method Statement shall contain full details of the following:

- (a) Timing and phasing of arboricultural works in relation to the approved development;
- (b) Construction exclusion zones;
- (c) Protective barrier fencing;
- (d) Ground protection;
- (e) Details of any works within the RPA (Root Protection Area) and the proposed arboricultural supervision;
- (f) Service positions; and,
- (g) details of any special engineering requirements, including 'no dig construction';

The approved AMS shall be implemented and adhered to throughout the construction phase of the development. This condition applies to any trees and hedgerows on the site and on land within the ownership and control of the applicant. Where trees/hedgerows are not on site and not within the ownership and control of the applicant the AMS shall still include on-site protection measures where necessary.

The development shall thereafter be carried out in strict accordance with the approved details.

Reason: To ensure that all existing trees and hedges on the site and adjoining sites are adequately protected while development is in progress, in accordance with Policies NC1 and C4 of the Torbay Local Plan and Policy TE5 of the Torquay Neighbourhood Plan.

This is a pre-commencement condition because the works comprising the development have the potential to harm retained trees and therefore these details need to be agreed before work commences.

6. Repeat survey for the presence of badgers

No more than 6 weeks prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the Local Planning Authority. Works shall then proceed in accordance with the approved documents.

Reason: To safeguard protected and/or priority species, and to ensure biodiversity net gain in accordance with Policy NC1 of the Torbay Local Plan.

7. Boundary treatments

Notwithstanding the approved plans and details, prior to the first occupation of the development hereby approved, a scheme of boundary treatment shall be fully installed in accordance with details which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, the approved boundary treatment shall be maintained and retained for the life of the development.

Reason: To ensure a satisfactory completion of development in the interests of visual and residential amenity and to protect the privacy of future and neighbouring occupants in accordance with Policies DE1, SS10 and DE3 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

8. Stone wall details

Prior to the installation of stone walling materials, sample panel(s) of all new and/or reused facing stonework, including in the construction of walls, shall be provided on site showing the proposed -

Stone types, sizes, colour, texture face-bond and pointing mortar mix, joint thickness and finish profile. The stonework shall be laid on its natural bed and pointed in a lime mortar recessed from the outer face of the stone. Machine cut or sawn faces shall not be used.

Approval of the materials and methods shall be confirmed in writing by the Local Planning Authority prior to installation of the materials and development shall then take place in accordance with the approved details. The approved sample panel(s) shall be retained on site until the work is completed.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

9. Materials

Prior to their installation, technical details and/or samples of the proposed exterior materials including wall finishes, roofing materials, eaves, fascias and rainwater goods shall be submitted to and approved in writing by the Local Planning Authority.

The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policies DE1 and SS10 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

10. Window and door details

Notwithstanding the approved plans and details, prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10
- Frame and door materials

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: In the interest of visual amenity and in accordance with Policy DE1 and SS10 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

11. Parking provision

The dwellings (including apartments) hereby approved shall not be occupied or brought into use until the courtyard parking area and undercroft parking area at lower ground floor level as detailed on approved plans '818.10A' and '818.11A' have been provided in full and are available for use. The parking areas shall thereafter be permanently retained for the use of parking for the associated dwelling/apartment for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Torbay Local Plan.

12. EVCP

Prior to the occupation of the new dwellings (including apartments) hereby approved, a scheme for the insertion of ten electrical vehicle charging points to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The approved electrical vehicle charging point shall be installed in accordance with the approved details and shall thereafter be available for use, maintained and retained for the lifetime of the development.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan.

13. Cycle storage

Prior to the first occupation of the new dwellings (including apartments) hereby permitted, and notwithstanding the submitted details, provision shall be made for the storage of bicycles to ensure that all bicycle users can store their bicycles according to details which shall previously have been submitted to and approved in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: To ensure adequate bicycle storage facilities are provided to serve the development in accordance with Policy TA3 of the Torbay Local Plan. The current proposal for vertical bike storage is unacceptable.

14. Designing out crime

Prior to the first use of the development hereby approved, 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.

Reason: In the interests of crime prevention in accordance with Policy DE1 and SS11 of the Torbay Local Plan and Policy TH2 of the Torquay Neighbourhood Plan.

15. External lighting

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

Reason: To safeguard protected and/or priority species in accordance with Policy NC1 of the Torbay Local Plan.

16. Landscaping

All proposed planting as detailed within plan references '818-M1C Rev C'; '818-M2C Rev C' and '818-M3(B) Rev B' (the "landscaping scheme") shall be planted in the next planting season following the commencement of the development and completed in full prior to the occupation of the development. The landscaping scheme shall thereafter be maintained for a period of 5 years from completion of the installation of the landscaping scheme. In the event of failure of any trees/plants, planted in accordance with the approved scheme, to become established and to

prosper for a period of five years from the date of the completion of the landscaping scheme, such trees/plants shall be replaced in the next planting season. The planting shall be maintained in accordance with the approved details.

Reason: To secure a landscape scheme that will complement the development in the interests of visual amenity, in accordance with Policies SS8, DE1, SS10 and C4 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

17. Reptile mitigation strategy

Development shall be carried out in strict accordance with the mitigation and compensation measures set out in the approved 'Reptile Presence/Likely Absence Survey Report #062b21/GLE' (Green Lane Ecology, May 2021). This shall include the translocation of reptiles in accordance with the Report.

Reason: To safeguard protected and/or priority species, and to ensure biodiversity net gain in accordance with Policy NC1 of the Torbay Local Plan.

18. Ecology Report

The recommendations and mitigation given in the 'Preliminary Ecological Appraisal Update #01523/GLE' dated February 2023 and the 'Bat Emergence/Activity Survey #04623/GLE' dated May 2023, shall be followed, including precautions to prevent threat of harm during construction works and timings of works.

3 integrated multi-species bird boxes, 6 integrated sparrow terraces and 1 integrated swift box shall be installed across the site prior to first occupation of the development hereby approved and shall be retained as such thereafter.

Reason: To safeguard protected and/or priority species, and to ensure biodiversity net gain in accordance with Policy NC1 of the Torbay Local Plan.

19. Bird nesting season

No vegetation removal including hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason: In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan.

20. Bin storage

Prior to the first occupation of the dwellings (including apartments) hereby permitted, the bin storage area detailed on approved plan '818.10A' shall be installed and made available for use. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policies W1 and DE1 of the Torbay Local Plan.

21. Surface water drainage

Surface water drainage shall be provided in accordance with the approved 'Surface Water Drainage Design February 2023 – P-2022-1186-9 (Drainage)' prior to first occupation of the dwellings (including apartments) hereby approved. Once installed the surface water drainage scheme shall be maintained and retained for the life of the development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan.

22. Sustainability

The construction of the development hereby approved shall be carried out in accordance with the details contained in the approved 'Torbay Sustainability Checklist – P-2022-1186-11 (Sustainability Checklist)'. All measures contained within the approved document to limit carbon emissions shall be implemented prior to first occupation of the development and shall be retained for the lifetime of the development.

Reason: In interests of low carbon development and in accordance with Policy SS14 and ES1 of the Torbay Local Plan.

23. Removal of permitted development rights

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

- (a) Part 1, Class A (Extensions and alterations)
- (b) Part 1, Class AA (Enlargement of a dwellinghouse by construction of additional storeys)

- (c) Part 1, Class B (Additions to the roof)
- (d) Part 1, Class D (Porches)
- (e) Part 1, Class E (Buildings incidental to the dwellinghouse)
- (f) Part 1, Class F (Hard surfaces incidental to the enjoyment of a dwellinghouse)
- (g) Part 2, Class A (Gates, fences, walls etc)

Reason: In interests of visual and local amenity given the sensitive location of the site and the potential for these works to negatively impact on the character and appearance of the development, in accordance with Policies DE1 and SS10 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

Informative(s)

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

Relevant Policies

C4 – Trees, Hedgerows and Natural Landscape Features
DE1 – Design
DE3 – Development Amenity
ER1 – Flood Risk
ER2 – Water Management
ES1 – Energy
H1 – Applications for New Homes
H2 – Affordable Housing
NC1 – Biodiversity and Geodiversity
SS3 – Presumption In Favour Of Sustainable Development
SS10 – Conservation and the Historic Environment
SS11 – Sustainable Communities
SS14 – Low Carbon Development and Adaptation to Climate Change
TA1 – Transport and Accessibility
TA2 – Development Access
TA3 – Parking Requirements
TE5 – Protected Species Habitats and Biodiversity
TH2 – Designing Out Crime
TH8 – Established Architecture
TH9 – Parking Facilities
TS4 - Support for Brownfield and Greenfield development
THW4 – Outside Space Provision
W1 – Waste Hierarchy

