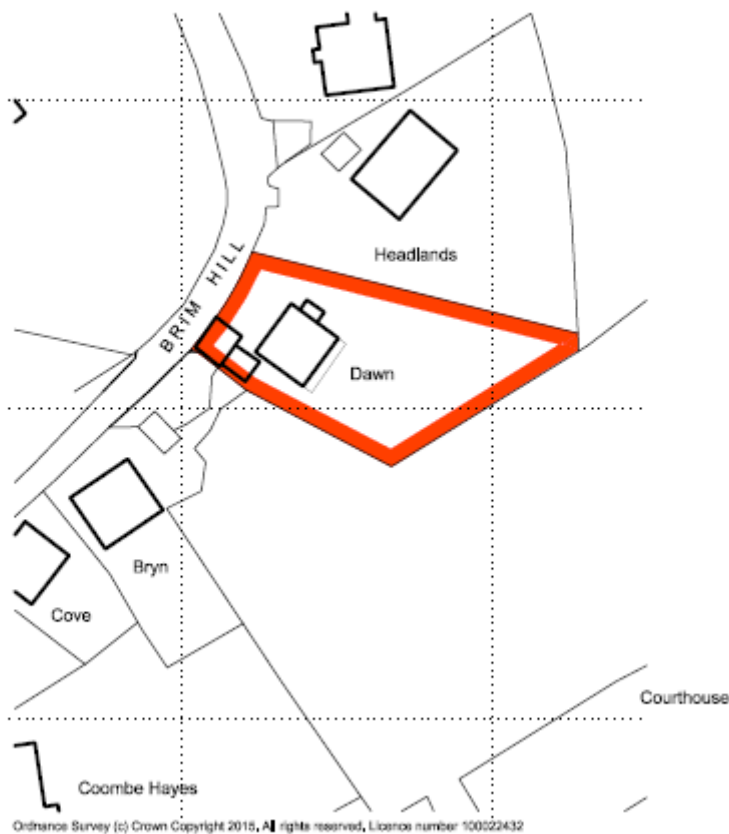


Application Site Address	Dawn, Brim Hill, Torquay, TQ1 4TR
Proposal	Variation of Appeal Conditions relating to application P/2020/1044: Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration. Conditions: 02 - Approved Plans, 03 - Materials Schedule (Stone Walls). Variations sought: revised drawings and schedule document.
Application Number	P/2023/0418
Agent	Daniel Metcalfe
Applicant	Tony Payne
Date Application Valid	19/05/23
Decision Due date	17/07/23
Recommendation	<p>Approval - subject to the condition as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p> <p>If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee following the SRM procedure.
Planning Case Officer	Sean Davies



### **Site Details**

The site at Dawn, Brim Hill, Torquay is a detached dwelling and its curtilage. The site is within the Countryside Area and Undeveloped Coast as mapped in the Local Plan and falls within the Maidencombe Village Envelope. The site is just outside the Maidencombe Conservation Area. The boundary of the conservation area runs along the south and west boundary of the site and along the middle of Brim Hill outside the front of the site to the north. The site is within a Landscape Connectivity Zone within the South Hams Special Area of Conservation for Greater Horseshoe bats.

### **Description of Development**

The current proposals seek to regularise a number of departures that have been made to the plans approved under reference P/2020/1044 during the ongoing build at the site. These comprise (1) new obscure glazed window in lower ground floor of south west elevation; (2) omission of approved window in north east elevation and enlarged window in ground floor of south east elevation; (3) omission of approved chimney; (4) change to colour of approved stone cladding; (5) three rooflights in approved single storey extension in south west elevation; (6) approved gable features in north east elevation to be lowered in height.

### **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:

### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Brixham Peninsula Neighbourhood Plan 2012-2030

## **Material Considerations**

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

## **Summary Of Consultation Responses**

Torquay Peninsula Neighbourhood Forum: The Neighbourhood Forum has re-submitted the policy checklist that was submitted for application P/2020/1044 which was approved on appeal. The Forum's response maintains that the various policy non-compliances identified in connection with P/2020/1044 also apply to the current proposals. In other words that the proposals are contrary to Torbay Local Plan policies SS1, SS3, SS8, SS9, SS10, C1, C2, C4, NC1, HE1, DE1, DE3, DE4, DE5, ER1, ER2 and ER4 as well as Torquay Neighbourhood Plan policies TS1, TH8, TH10, TH11, TH12 and TE5.

Specific points made in connection with the current proposals are that:

*“Variations to the glazing will result in loss of privacy for neighbours.*

*The chimney stack has already been removed even though the NMA requesting this was Refused. If you allow this through a variation of condition 2 then you contradict the LPA's reasons for refusing the NMA. Legally, we believe the chimney stack should be reinstated.*

*The Application seeks to change the design and shape of the roof. The argument given is that the “builder” has decided not to rebuild the eaves taller after removing the old roof, which was shown in the plans. This implies that the roof is in effect higher than in the plans. Changing the height of the eaves and the shape and height of the roof are not trivial matters.*

*There is a lack of clarity regarding the south-east elevation and the terrace/decking. This is not the same as the original (as claimed). As the Inspector for the Certificate of Lawfulness (P/2021/0931) Appeal noted, the terrace/decking has a completely different design from that approved in the plans and is constructed of different materials. The whole area beneath the terrace/decking has been excavated so there is headroom of over 2 metres beneath the decking. The terrace is bigger than in the plans and extends further into the garden, thus increasing loss of privacy”.*

## **Summary Of Representations**

Approximately 10 objections have been received:

### Mr & Mrs A H Pinhey, Old Grooms Quarters, Rock House Lane

- General concern that water crossing Rockhouse Lane may be a result of ageing pipes or poor new infrastructure at site.

### Dr R L & Mrs S L J Horder, Court House, Rock House Lane

- Concern that plans involve increase in roof height.
- Concern that chimney stack approved under P/2020/1044 should be retained.
- Concern that lower ground floor is larger than that approved under P/2020/1044.
- Concern that Condition 7 attached to P/2020/104 has been incorrectly discharged.
- Proposals are in breach of Torquay Neighbourhood Plan policies TH11 and TH12.

### The Bryn, Brim Hill

- Plans inaccurate/incomplete.
- Loss of privacy.
- Concerns about lack of enforcement action.

#### Home Orchard, Brim Hill

- Concerns about drainage.
- Concerns that submitted plans are inaccurate.

#### Maidencombe Residents Association

- Various concerns about procedural irregularities relating to previous planning approvals at the site (now subject to a number of formal and ombudsman complaints)
- Concerns that approved lower ground floor extension has been built larger than was approved and now extends into a Conservation Area (P/2020/1044).

#### Mr David Woodward, The Cove, Brim Hill

- *“Significant increase in the visual impact of the development, at variance to Application P/2020/1044 which states “...visual impact no greater than the present day””*
- *“Significant non-compliance with Torbay Development Plan policies”.*
- *“Significant non-compliance with EA (and other) drainage regulations”*
- *“Significant and continued breach of the Appeal Conditions for Application P/2020/1044”*
- *“Significant negative impact on the adjacent Maidencombe Conservation Area”*
- *“Clearly, Application P/2023/0418 looks to overturn the Appeal Conditions of P/2020/1044 dated 21 July 2021 and an ongoing strategy to sidestep these and other conditions through continual application and appeal. Approval would set a dangerous precedent for other developers to exploit”.*

#### Mrs Margaret Mundy, Coombe Hayes, Brim Hill

- *“it has been noted by many residents of Maidencombe that the frequency and effect of exceptionally heavy and prolonged rainfall creates streams of water that last for many days. The incidence of this type of rainfall has increased substantially over the last few years and so the risk to the lower lying properties in the village in the Flood Risk 3 zone is much higher than the standard set out in a flood risk assessment. This requires demonstration that there is no risk of flooding to properties on the site or any increased risk of flooding to properties and land adjacent to the site. No guarantee of this been provided”.*
- *“The planning documents in this and previous applications give no detail about how foul waste will be dealt with for what is now becoming a five bedroomed property”.*
- Concerns that the roof ridge has been built higher than was permitted under P/2020/1044)
- Concerns that enforcement action should have been taken to prevent works from continuing in the absence of planning permission.

#### Mr Mike Badcock, Bowden Cleeve, Steep Hill

- *“We would like to object to this appeal on the grounds of size and precedent. We do not wish to repeat the specifics of this planning application, which have been adequately addressed in the other comments. However, we would like to record our serious concerns that the appeal is even being entertained at this time. The building work is now approaching completion, and yet numerous applications have been refused by the Council. In our opinion allowing the construction to remain would set a dangerous precedent and make a mockery of planning law”.*

#### Mr & Mrs P Rainbird, Wekiva Teignmouth Road

- General frustration with planning history at the site.

#### Maidencombe Community Group (Chairman Doug Palmer)

- Concerns that the ongoing build at the site does not comply with some aspects of the previously approved plans (P/2020/1044).
- Concerns that the submitted plans are inaccurate.

## INACCURATE & INCOMPLETE PLANS

Objections have been made that the submitted plans are inaccurate and incomplete and actually involve changes to the footprint of the building approved on appeal under reference P/2020/1044 and to the height of the ridge approved under P/2020/1044.

Officers do not agree that the submitted plans are inaccurate or incomplete. The changes that the applicant is now seeking planning permission for are clearly shown on the submitted plans.

The submitted plans do not involve increasing the footprint of the building or changing the height of the ridge.

As such these concerns are not considered further below.

## ONGOING COMPLAINTS

A number of objections refer to the Council's decision not to take enforcement action. The current application under consideration here seeks to regularise these breaches. The issue of whether or not enforcement action might have been taken in the past is not relevant.

Objections relate to arrangements for managing surface water drainage (i.e. rain).

Officers are satisfied that the current proposals under consideration here do not involve any increase in the impermeable area of the site as already approved under P/2020/1044. Officers do not therefore consider that the ongoing concerns over surface water drainage are relevant here.

## PROCEDURAL ISSUES

Objections have been made that the current application should be refused as a previous Non-Material Amendment application P/2023/0117 that showed the same proposed changes was refused.

P/2023/0117 was refused solely on the basis that officers did not consider that the proposed changes in that application were trivial. The reason for refusal was:

*"The proposed changes are not trivial, the current proposals involve significant changes to the visual appearance of the building, including the removal of a chimney stack and the replacement of stone cladding included as a condition attached to P/2020/1044 with alternative stonework of a different colour".*

A Non-Material Amendment application cannot be used to seek changes that are not trivial in nature. This is the only reason why P/2023/0117 was refused. Officers did not come to a view at that time whether any of the proposed changes included in P/2023/0117 and now in P/2023/0418 were acceptable or not.

As such, officers do not agree that the decision to refuse P/2023/0117 means that the current application (P/2023/0418) should also be refused. The current application is a Variation of Condition application This is an appropriate application type to seek permission for the changes (to approved application P/2020/1044) that are proposed.

## **Relevant Planning History**

P/2023/0117: Non-Material Amendment to P/2020/1044. Alterations to windows, chimney, stone facing, roof lights. REFUSED

CN/2022/0109: Discharge of Conditions relating to P/2020/1044. Condition 7. APPROVED

CN/2021/0106: Discharge of Conditions in relation to P/2020/1044: Condition 7 - FRA/Soakaway design. REFUSED

P/2021/0931: Certificate of Lawfulness for proposed formation of porch, side extensions, rear extension, dormer loft conversion & outbuilding. REFUSED / SPLIT DECISION AT APPEAL

P/2020/1044: Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration (part retrospective). REFUSED AT COMMITTEE / APPEAL UPHELD

CN/2018/0068: Discharge of conditions 1,3 & 8 (of approval P/2016/0471/HA - Varied by P/2018/0311 - Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height. Re-Submission of P/2015/1025) - Cond 1: Stone sample. Cond 3: Lighting. Cond 8: Bat licence. APPROVED

P/2018/0311: Variation of condition P1 (approved documents) of application P/2016/0471 (Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height) Alterations sought: Raise in ridge height, alterations to fenestration including glazing on south east and north east elevation and relocation of roof window in sedum roof. APPROVED

P/2017/1290: Non Material amendment re P/2016/0471 (Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height) - Change of roof material WITHDRAWN

P/2017/1292: Non Material Amendment on application P/2016/0471: Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height (Re-Submission of P/2015/1025) (Revised description). Amendment sought: Alterations to glazing on south east and north east elevation. Roof window in sedum roof moved. WITHDRAWN

P/2016/0471: Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height (Re-Submission of P/2015/1025) (Revised description) APPROVED

P/2015/1025: Extensions and alterations including side & roof extensions & extended terrace & balcony REFUSED

DE/2015/0017: Joining of utility room to main dwelling house to include small extension. SPLIT DECISION

P/2014/0913: Proposed extension to Southwest facing elevation and alteration to existing roof REFUSED

P/2007/0574: Conversion of Outbuildings to Ancillary Accommodation APPROVED

## SUMMARY

As can be seen, a number of applications have been made at this site over the years. Officers consider that the salient points relating to this site are as follows.

Proposals were approved in 2016 (P/2016/0471) for various extensions to the property. These proposals were then granted planning permission to be varied in 2018 (P/2018/0131). The applicant allowed the original planning permission to lapse (i.e. the applicant did not start works within the three year period that planning permission allows for). This meant that there was no planning permission for the proposals approved under P/2016/0471 or P/2018/0131 anymore.

As a consequence, the applicant had to re-apply for planning permission to extend their house in a similar way as had originally been approved (P/2016/0471 varied by P/2018/0131) in 2020 (P/2020/1044).

This application did involve some changes to the proposals approved under P/2016/0471 and P/2018/0131 but in the course of assessing the application, officers considered that the proposals made under P/2020/1044 were substantially similar to these previously approved proposals. Officers therefore recommended approval for the proposals (P/2020/1044). The application was decided at Committee and refused against officer advice. The proposals (P/2020/1044) were then appealed by the applicant successfully and now have planning permission. The date of the appeal decision confirming planning permission for P/2020/1044 is 15/10/21.

The applicant then made application P/2021/0931. This application type was a "Certificate of Lawfulness – Proposed" application seeking to establish that the applicant had permitted development rights (i.e. where planning permission is not needed) to construct works exceeding those already approved under P/2020/1044. The Council refused this application (at officer level). The applicant again appealed the refusal. The Inspector in considering the appeal made a split decision, meaning that some elements of the application were deemed to be acceptable under permitted development rules and some were not.

Condition 7 attached to the permission (upheld at appeal) for P/2020/1044 required the use of soakaways or alternative means of drainage, to be approved by the Council, to be used to deal with surface water run off (i.e. rain) from the increased impermeable areas created by the proposals approved under P/2020/1044. The Council received application CN/2021/0106 aimed at discharging Condition 7 but refused it on advice from the Council's Drainage Engineer. The Council later approved later application CN/2022/0109 to discharge Condition 7, again on advice from the Council's Drainage Engineer.

The applicant then made Non-Material Amendment application P/2023/0117 to cover the changes to approved application P/2020/1044 that are included in this current application.

This Non-Material Amendment application was refused as officers considered that the criteria for the approval of a Non-Material Amendment had not been met. What this means is that officers did not consider the proposed changes to be "trivial" (which is all that a Non-Material Amendment application can be used for). For the complete avoidance of doubt, officers did not come to any view as to whether the proposed changes covered by refused P/2023/0117, which are duplicated in the application under consideration here (P/2023/0418) were acceptable or not in planning terms. Officers refused application P/2023/0177 solely on the basis that it did not meet the technical rules that need to be met for Non-Material Amendments. These reasons were:

*“The proposed changes are not trivial, the current proposals involve significant changes to the visual appearance of the building, including the removal of a chimney stack and the replacement of stone cladding included as a condition attached to P/2020/1044 with alternative stonework of a different colour”.*

## **Planning Officer Assessment**

The key issues to consider in relation to this application are:

1. Principle of development
2. Visual Amenity
3. Heritage
4. Countryside and coast
5. Maidencombe
6. Amenity
7. Flood risk and drainage
8. Other policies

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

The proposal seeks permission for Variation of Appeal Conditions relating to application P/2020/1044: Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration. Conditions: 02 - Approved Plans, 03 - Materials Schedule (Stone Walls). Variations sought: revised drawings and schedule document. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

### **2. Visual amenity**

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 DE5 of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. TH8 of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The current proposals seek to regularise a number of departures that have been made to the plans approved under reference P/2020/1044 during the ongoing build at the site. These elements are considered individually below in the order in which they are introduced in the applicant's letter of 15/05/23:

#### **1) Lower ground floor window in bathroom at rear.**

This window is in the south west side elevation. It would be obscure glazed. It would not be visible from the public realm. Officers consider that this element of the proposals is acceptable in visual terms.

#### **2) Window alterations to the existing porch (approved dressing area and bathroom).**

This element of the proposals involves (i) omitting a previously approved window in the side north east elevation at ground floor level; and (ii) enlarging a previously approved ground floor bathroom window in the rear south east elevation so that it is wider and becomes a floor to ceiling window.

Officers consider that both of these elements are acceptable in visual terms.



### 3) Chimney

The approved plans for P/2020/1044 show a new chimney to be built on the south west side elevation. There was no pre-existing chimney at the property. The applicant has explained that the chimney was included in the previous design “...to create a hearth to heat the new room formed. However, in recent times the importance of creating low-carbon, energy efficient homes has ramped up and my client has opted to install and air source heat pump to heat the whole house”. The chimney is therefore no longer needed.

The proposals now seek to remove the previously approved chimney from the proposals. Officers consider that this omission is acceptable in visual amenity terms.

### 4) Sourcing of the stone facing

The approved plans for P/2020/1044 include stone cladding to areas of the house as extended using a beige/pinkish stone. The current proposals involve changing the colour of this stone cladding to stone that is more grey in appearance. The application includes an email from Aggregate Industries confirming that Stoneycombe Quarry, the approved source of the cladding, is no longer supplying stone cladding. The applicant has therefore necessarily had to source the stone from an alternative source.

Officers have seen some of this grey colour stone in situ in the south west side elevation and consider that it is acceptable in visual terms.

### 5) Rooflights

The proposals include three new roof lights in the approved single storey extension on the south west elevation to the site.

These rooflights are not visible from the road outside the site. Officers consider that the proposed rooflights are acceptable in visual terms.

### 6) North east gable features

The approved plans for P/2020/1044 showed two pre-existing small gable extensions in the front north west elevation being raised in height slightly. The current proposals show these gables being reduced in height from their approved positions. The applicant has explained the reason for the change in the following terms:

*“It was a simple error by the builder, who constructed the gables off the existing window heads, instead of raising the gable roof to match the eaves line of the main roof shown on the approved drawings. The builder started the rafters at the original window head height (approx. 200mm lower than that approved). The approved drawings would have meant creating new wall plates and raising the window head up to meet the approved eaves line”.*

Officers consider that the lower gables that have been constructed are acceptable in visual terms.

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

The proposal is therefore considered to be in accordance with Policies DE1, DE5 and TH8.

### **3. Heritage**

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Also, that proposal that may affect heritage assets will be assessed in view of their impact on listed and historic buildings and their settings. Policy HE1 also states that development proposals should have special regard to the desirability of preserving any listed building and its setting.

The site is just outside the Maidencombe Conservation Area. The boundary of the Conservation Area runs along the middle of the road outside the property and along its south west boundary. Officers have nevertheless considered the impact of the proposals on the setting of the Conservation Area, Grade II listed buildings and Key Buildings within it. Officers consider that the proposals have a neutral impact on the setting of heritage assets.

The proposal is therefore considered to be in accordance with Policies SS10 and HE1 of the Local Plan, Policy TH10 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

### **4. Countryside and coast**

Policy C1 (Countryside and the rural economy) of the Local Plan states that “...*development in the open countryside away from existing settlements will be resisted where this would lead to the loss of open countryside or creation of urban sprawl ... development outside the main urban areas and Strategic Delivery Areas will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies, including those relating to landscape, recreation, biodiversity, design and conservation. Suitable in-fill development, refurbishments and conversions will be permitted within these settlements in order to meet the day-to-day needs of local communities ...*” Policy C2 (The coastal landscape) states that the Council will preserve the character of the undeveloped coast and that development in this area will only be permitted where it maintains the unspoilt character of the coastline and coastal landscape.

Objections have been made that the proposals are contrary to these policies.

The Committee report for approved application P/2020/1044 stated that:

*“... Officers have considered the proposals in relation to these policies and consider that they are of an appropriate modest scale relative to the Maidencombe village boundary”.*

Officers consider that the current proposals would not change the assessment made before as above and that the current proposals would remain of an appropriate modest scale relative to the Maidencombe village boundary and are unlikely to detract from the character of the coastline or coastal landscape such that a refusal is warranted.

The proposal is therefore considered to be in accordance with Policies C1 and C2.

### **5. Maidencombe**

Policy TH11 (Rural village conservation areas) of the Torquay Neighbourhood Plan states that: *“Within the Maidencombe and Cockington Village designated Conservation Areas, subject to other policies in this Plan, development proposals consisting of sensitive conversions, extensions and alterations will be supported where this would protect or enhance the character and setting of the designated Conservation Area and also have regard to the significance of existing open spaces in*

*terms of their contribution to the Conservation Area". Policy TH12 (Maidencombe area) of the Torquay Neighbourhood Plan states that: "Any proposal for development within Maidencombe Village Envelope must demonstrate that it respects local character and it conserves or enhances heritage and landscape assets where it might impact on those assets. To achieve this, any development must be of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes. Designs and construction materials must draw from and be in keeping with local features and design characteristics and be appropriate in relation to its landscape sensitivity. Development must take into account the value of the rural landscape and comply with the Local Plan policies in the designated Countryside Area (C1) and Undeveloped Coast (C2). Major developments in C1 countryside, outside the Village Envelope, will not be supported and any green-field development will be resisted unless it is compatible with the rural character and setting and it fits within the constraints of the existing landscape and visual character of the area".*

Objections have been made that the proposals are contrary to these policies.

Officers do not consider that Policy TH11 is relevant since this policy only applies to areas within conservation areas. As noted above, the site is not in the Maidencombe conservation area.

The Committee report for approved application P/2020/1044 stated that:

*"... In this case officers do not consider that the proposals impact on heritage/landscape assets and nevertheless consider that the proposals are "of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes ... Officers consider that the proposals accord with policies C1 and C2".*

Officers consider that the current proposals do not impact negatively on heritage or landscape assets. The proposals do not affect the footprint or height of the building as approved under P/2020/1044. As noted above, officers consider that the proposals as altered would remain in accordance with policies C1 and C2.

The proposal is therefore considered to be in accordance with Policy TH12 (as above, officers do not consider that Policy TH11 is relevant).

## **6. Amenity**

Policy DE3 states that development should provide a good level of amenity for future residents or occupiers and should not impact upon the amenity of neighbouring uses with reference to criteria including, noise, nuisance, visual intrusion, overlooking, and privacy, light and air pollution and the scale and nature of the proposed use where this would be overbearing.

Objections have been made that the proposed changes to fenestration would result in a loss of privacy for neighbours.

Proposed changes to fenestration would be limited to (i) the omission of a previously approved window in the side north east elevation at ground floor level; (ii) adding a new obscure glazed window in the south west side elevation at lower ground floor level; (iii) adding three new rooflights in the approved extension on the south west elevation of the site; and (iv) enlarging a previously approved bathroom window in the south east rear elevation to make it a wider floor to ceiling window.

Clearly, the omission of the window in the north east elevation does not give rise to any privacy concerns. Officers do not consider that the proposed obscure glazed window in the south west elevation gives rise to any privacy concerns either. Officers have been inside the extension on the south west elevation and confirm that it is not possible to see any neighbouring property from the new rooflights that have been built. Officers have also looked out of the enlarged bathroom window in the south east elevation and can confirm that it does not result in overlooking to any neighbouring property. Very little of neighbouring properties can be seen from this window. Those that can be seen are a very substantial distance away.

With the above in mind, officers do not consider that the proposals under consideration here would result in any loss of privacy to neighbours, or other amenity impacts.

The proposal is therefore considered to be in accordance with Policy DE3 of the Local Plan.

## **7. 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 is accompanied by a Flood Risk Assessment.

Objections have been made about the potential for surface water run off (i.e., rain) from the site to lead to flooding further down the hill that the property is built into the side of sited along Rockhouse Lane. It appears that some of these objections relate to the extensions that have already been approved under P/2020/1044 and the Council's decision to discharge condition 7 attached to that permission, concerning drainage but that some may also be directed towards the current proposals.

As noted above, officers are satisfied that the current proposals under consideration here do not involve any increase in the impermeable area of the site as already approved under P/2020/1044.

As such, there is no drainage implication associated with the current proposals.

The proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

## **8. Other policies**

As noted above, the Torquay Neighbourhood Forum has resubmitted the policy checklist provided in support of its objection to approved application P/2020/1044. Some of these policies have been considered above. Those that have not are:

Torbay Local Plan policies SS1 (Growth Strategy for a prosperous Torbay), SS3 (Presumption in favour of sustainable development), SS8 (Natural environment), SS9 (Green infrastructure), C4 (Trees, hedgerows and natural landscape features), NC1 (Biodiversity and geodiversity), DE4 (Building heights), ER2 (Water Management) and ER4 (Ground stability) as well as Torquay Neighbourhood Plan policies TS1 (sustainable development), TH10 (Protection of the historic built environment), and TE5 (Protected species, habitats and biodiversity).

These policies were all considered in the context of the Committee report relating to application P/2020/1044 which recommended approval for the proposals under consideration at that time.

Officers do not consider that any of these policies are strictly relevant to the current proposals under consideration here. It is noted that a number of policies identified are strategic in their aims i.e., SS1 whilst others do not apply in this instance i.e. policy TH10, which applies to changes to listed buildings.

Officers are satisfied that the proposals under consideration here do not conflict with any of these policies, such that the proposals should be refused.

### **Human Rights and Equalities Issues**

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

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

### **Local Finance Considerations**

#### **S106/CIL**

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

#### **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.

### **Planning Balance**

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development. As such it is concluded that the planning balance is in favour of supporting this proposal.

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

The proposal is considered acceptable, having regard to the Local Plan, the Torquay Neighbourhood Plan and all other material considerations.

### **Officer Recommendation**

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 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.

If Members of Planning Committee are minded to refuse the application against officer recommendation, final drafting of the reason(s) will be delegated to the Divisional Director of Planning, Housing and Climate Emergency and in consultation with the chairperson.

### **Conditions**

#### **Obscure glazing**

The window to be created in the lower ground floor in the south west elevation shall be glazed in obscure glass and shall be non-opening below a height of 1.7 metres measured from the internal finished floor level. The windows shall not thereafter be altered in any way without the prior written approval of the Local Planning Authority.

Reason: In the interest of neighbour amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.