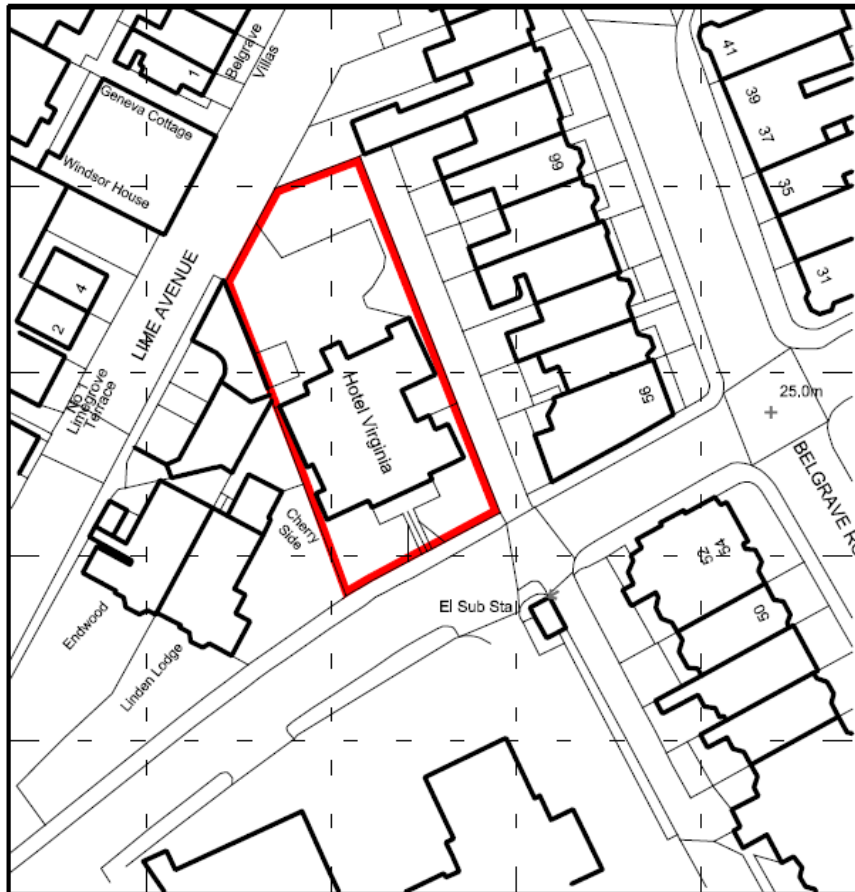


TORBAY COUNCIL

Application Address	Hotel Virginia, Falkland Road, Torquay. TQ2 5JH.
Proposal	Demolition of vacant hotel and construction of 14 apartments with associated landscaping works.
Application Number	P/2023/0868.
Applicant	Powis Hotels Limited.
Agent	DJMA Limited.
Date Valid	05.10.2023.
Decision Due Date	04.01.2024.
Extension of Time	08.03.2024.
Recommendation	<p>Refusal; for reasons of;</p> <ol style="list-style-type: none"> 1. The development, by reason of the demolition of the existing building and the layout, height, massing, and detailed design of the proposed development, would fail to preserve or enhance the character and appearance of the Torre Conservation Area, which would result in harm to this designated heritage asset, would harm the setting of the Belgravia Conservation Area and Tormohun Conservation Area, and would lead to the total loss of the current buildings significance as a non-designated heritage asset. As such the development is considered contrary to Paragraphs 135, 139, 195, 203, 205, 208, 209 and 212 of the NPPF and Policies SS10, SS11 and DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan, and the requirements of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. 2. The development, by reason of the addition height and massing of the proposed building adjacent to the western boundary with 'Cherrytrees', would adversely impact the amenities of adjacent residents, resulting in an undue loss of outlook and light to the property's amenity space and internal accommodation. As such the development is considered contrary to Paragraph 135 of the NPPF and Policies SS11, DE1 and DE3 of the Torbay Local Plan.
Reason for Referral to Planning Committee	Major Development.
Planning Case Officer	Scott Jones.



Site Details

The site sits between Falkland Road and Lime Avenue, 35m west of the junction of Falkland Road with Belgrave Road. It holds a single building, previously in use as a hotel, which fronts Falkland Road. The building is set behind a stone wall and there is a moderate sized landscaped and paved frontage, with pedestrian access. To the rear there is a large expanse of parking accessed off Lime Avenue.

The hotel accommodation in the building comprises of 25 rooms (16 double and 9 single), together with an owners' flat at lower ground floor and communal space at ground floor (reception/bar and dining room (including kitchen)). The building is not currently operating as a hotel, which ceased in September 2022.

The building dates from the late Victorian period and was originally a pair of semi-detached dwellings set between earlier Victorian development to the West (Linden Lodge) and the east (the terraced properties off Belgrave Road). Its' scale is 2/3 storeys, with two storeys predominantly rendered and the upper floor set within the slate tiled (turnerised) multi-gabled roof. Tile hanging is also present at first floor directly below a prominent tile-hung double gabled roof feature.

In terms of context the site borders residential properties to the west, to the east there is a rear service lane that serves the terraced buildings off Belgrave, which appear to be within holiday use. To the north across Lime Avenue lies residential properties, and to the south across Falkland Road sits a large hotel.

In terms of additional context, the site sits within the Torre Conservation Area and is identified as a part of an 'Important Building Group' and also as a 'Key Building' within the Torre Conservation Area Character Appraisal. It also sits within an identified Community Investment Area under the Local Plan. Local Shopping Centres sit the east (Lucius Street) and north (Belgrave Road), and the designated Torquay Town Centre begins within 500m to the east of the site. To the south across Belgrave Road is the northern extent of a designated Core Tourism Investment Area (Harbourside, waterfront and Belgrave Road) and the northern border of the Belgravia Conservation Area. To the east the boundary of the site is the western border of the Tormohun Conservation Area.

Description of Development

The proposal is for the demolition of the existing building and redevelopment of the site to provide 14 apartments within a 4-storey building, with parking to the rear providing 14 spaces, and integrated waste storage and cycle storage within the building.

The accommodation proposed is 8x 2-bed units and 6x 1-bed units, with four units arranged on floors 1-3 and 2 units within the uppermost floor. Cycle storage is provided at ground floor level off the main entrance and waste storage and plant space is to be provided within a partial lower ground floor. Internal circulation is provided through stairs and a lift.

The proposed building is flat roofed and modern in general form with a mixed palette of materials. The ground floor (and partial lower ground floor) is finished in stone, above which there are two floors of painted render, with grey cladding used within the uppermost floor. Windows and doors are to be grey powder-coated aluminium, and parapet cappings and rainwater goods are also to be grey. To the front frameless glass encloses the first floor terraces and second floor Juliet balconies. To the rear a metal framed balcony system is attached that provided first and second floor balconies. Roof terraces are present to the front and rear of the uppermost floor.

The proposal includes works to the rear boundary and access, together with works to reframe the front pedestrian access within the stone boundary wall.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted Torquay Neighbourhood Plan (TNP)

Material Considerations

- National Planning Policy Framework (NPPF)

- Planning Practice Guidance (PPG)
- Published standing Advice
- Heritage setting, within a Conservation Area (Torre) and within the setting of the Tormohun and Belgravia Conservation Areas.
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990: Section 72: The local planning authority has a duty to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Relevant Planning History

Recent Pre-Application Enquiry:

DE/2022/0079: Demolition and replacement of hotel with 14 flats with parking, ancillary spaces and gardens: Summary advice: The move away from a tourism use on the plot is not of great concern. The building should however be retained when considering heritage context and would support a revised strategy regarding an appropriate renovation scheme, or one containing suitable enabling development to achieve this outcome.

Summary of Representations

18 representations with 8 submissions of support and 10 submission citing objections, five of which are from a single contact (Torbay Heritage Trust).

Key points raised for:

- Support the principle.
- Provides housing.
- Removes an eyesore.
- Appropriate design for a historic area.
- Support as long as there is adequate parking.
- Will remove anti-social behaviour.
- Current building doesn't hold much heritage value.

Key points raised against:

- Not in keeping with the area.
- Loss of historic building and impact upon character and tourism experience.
- Proposed design similar to other proposals in Torbay refused consent.
- insufficient parking.
- impact of construction phase on Lime Avenue.
- Fails various heritage policies and duties required within the Planning (Listed Buildings and Conservation Areas) Act.
- Isn't informed by an independent heritage-based design review panel.
- Hasn't responded to the pre-application advice.

Summary of Consultation Responses

Torquay Neighbourhood Forum: Objection.

The Forum recognises the need to address this building and the site in which it sits given that it is currently unoccupied, has been the source of significant anti-social behaviour, and is in a significant state of disrepair. However, concerns are noted regarding the proposal being a full demolition and modern replacement for the site.

The Forum recognises that this scheme would provide housing on a brownfield site, within easy reach of many amenities, aligning it with some policies in both the Local Plan and Torquay Neighbourhood Plan, and supports the provision of outside space and balconies for the properties.

However, both the Local Plan and the Torquay Neighbourhood Plan policy guidance makes it clear, in policies, TO2 and TT2, that there will be resistance to the demolition of heritage buildings and a preference for restoration to preserve and enhance our historic environment and Conservation Areas. The Forum also finds that the scheme is non-compliant with Torquay Neighbourhood Plan Policy TH8 relating to established architecture.

Policies that relate to heritage, conservation and design must be given due consideration.

On balance the Forum recommends refusal of this planning application and a request that the developer comes up with a revised scheme that reflects the raised concerns and those given in the comprehensive and independent advice by Historic England.

Historic England: Objection.

Taking into account the arguments raised in the Design & Access Statement, and the contents of the condition survey and Heritage Statement, Historic England finds the total demolition of the Hotel Virginia and its replacement with the development proposed would result in unjustified and unnecessary harm to the Torre Conservation Area, and to the building itself.

The proposals would result in the total loss of the Hotel Virginia, a building that is identified by Torbay as one which merits non-designated heritage asset status and inclusion within the boundary of the conservation area. The harm caused would be substantial as the building would be entirely lost.

Harm would also be caused to the Torre Conservation Area, a designated heritage asset. This harm would fall within the less than substantial category, but this does not imply that the harm is acceptable.

The harm would be further exacerbated by the introduction of a new building which does not reflect the local distinctiveness, character, or appearance of the conservation area. The conservation area would be neither preserved nor enhanced.

Historic England objects to this application as it would result in high levels of harm being caused to the Torre Conservation Area, and the application building (a non-designated heritage asset). This harm is unjustified as alternative options are available that would avoid or minimise that harm.

Recommend that the application is refused as it does not meet the requirements of the NPPF, in particular paragraph numbers 134, 195, 196, 199, 200, 202, 203 or 206 (NPPF2021).

In determining this application the authority should consider in mind the statutory duty of section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas; and section 38(6) of the Planning and Compulsory Purchase Act 2004 to determine planning applications in accordance with the development plan unless material considerations indicate otherwise.

Torbay Council Principal Historic Environment Officer: Objection.

The proposed development would cause clear harm to a number of identified heritage assets and in its current form the proposal would neither preserve nor enhance the character or appearance of the identified conservation areas. The proposal is hence considered to be contrary to Policy SS10 of the Torbay Local Plan.

In line with the requirements of the NPPF, permission should be refused, unless it can be demonstrated that the harm caused can be outweighed by associated public benefits, whilst being mindful of the great weight which should be given to the conservation of heritage assets. This would be a matter for the overall planning assessment of the proposals.

The application proposes that a new landscaping scheme for the site would deliver a heritage benefit. This is considered to be a very minor benefit which would not outweigh the identified harm. There are no other heritage benefits associated with the proposals.

Victorian Society: Objection.

Hotel Virginia is a former pair of late C19 dwellings. The building has undergone significant alteration since construction and is not listed, but it is identified as a key building within the Torre Conservation Area. Furthermore, Hotel Virginia borders both the Belgravia and Tormohun Conservation Areas, characterised by their C19 buildings. Although these buildings are not uniform in design, they are of similar scales and utilise similar details, this gives the Conservation Areas a strong cohesion. The proposed redevelopment of the Hotel Virginia site would see the demolition of the existing building and its replacement with no14 dwellings. The proposed building is of undistinguished design that makes little reference to the character of its surroundings. As such it cannot be considered to enhance the significance of the Conservation Area or contribute to the setting of nearby Conservation Areas. The restoration of the existing building would offer clear enhancement to the significance of the Torre Conservation Area, and enhancement to the settings of the Belgravia and Tormohun Conservation Areas, this should be considered the preferable option for redevelopment of the site.

The NPPF states: '206. 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.' The application as proposed does not align with the NPPF and should be refused.

Torbay Council Strategic Planning: No objection in principle.

Updated summary comments considering the amended NPPF and Written Ministerial Statement dated 19th December 2023 as below.

No objection to the loss of the hotel principally due to its location is not within a Core Tourism Investment Area. There is some conflict with the Neighbourhood Plan due to its scale being over 10 bedrooms and limited detail on marketing, however the English Riviera Destination Management Plan has identified an oversupply of low-grade tourism accommodation in Torbay. The site has become run down and adds little to the tourism industry, and higher quality accommodation and facilities are available elsewhere in the area.

The provision of housing must be given significant weight in the planning balance. The proposal scores very well as a sustainably located housing site in relation to Policy H1. It is very close to Belgrave Road Local Centre and within moderate walking distance of a full range of facilities, including the town centre, 2 train stations, as well as public open space and tourism amenities. In terms of meeting Torbay's need for housing, it is very important that brownfield opportunities are seized upon, and that densities are increased.

Heritage impacts are likely to be a key consideration with the main issue is likely to be the impact of the proposal on the character and appearance of the Torre Conservation Area and other heritage assets in the area, including the nearby Tormohum and Belgravia Conservation Areas. The demolition of the building is likely to result in "less than substantial harm" to the conservation area as a whole, and should be weighed against the public benefits (NPPF 208). NPPF 210 also requires Local Planning Authorities to take reasonable steps to ensure that new development will proceed if consent is granted for the demolition of the building.

The Presumption in Favour of Sustainable Development is applicable. Torbay is extremely short of developable greenfield opportunities and a large amount of its housing will need to come from urban sites. The proposal is below the threshold for affordable housing, but will help urban regeneration. The proposal is CIL liable for a small amount of additional floorspace, but the CIL liability is unlikely to be a significant consideration.

Weighing up the planning balance the benefits will need to be weighed against heritage and design considerations. Impact on heritage assets is a "footnote 7" matter that can constitute a clear reason for refusal under paragraph 11(d)(i), in addition to the separate legal status that Conservation Areas enjoy. If a tilted balance is made under paragraph 11(d)ii, then the design and heritage polices noted above remain relevant as does the added protection afforded the TNP until June 2023 (and retains weight after that date).

If supported recommend that a condition be imposed removing permitted development rights for Class C4 HMO use, given that the area is within a Community Investment Area as defined by Policy SS11 of the Local Plan.

Highway Authority (SWISCo): No objection.

The previously raised concerns relating to visibility at the access junction of the site have now been alleviated.

Waste & Recycling Officer (SWISCo): No objection.

Confirm that an objection is not raised to this development. Support the incorporation of the points previously raised. Support the provision of a sink in the bin store area, which is not common but improves hygiene, which is one of the main barriers to recycling where shared arrangements are in place.

Note that operational staff have confirmed that collections already take place on service lane and that the distance is acceptable to pull communal bins. It seems the access is flat and level with no steps or kerbs between the bin store and the highway. It would be good to confirm this with the developer.

Regarding refuse capacity it is noted that capacity has been added.

Regarding recycling it is noted that capacity has been added. However, in the revised plan the bins are not stored so that they can be used easily by residents. A way to increase the area for the storage of recycling bins may be to ensure that in any agreements with residents' garden waste is stored in the garden or car park areas.

A management company should be established to present a point of contact for recycling and waste collections.

Coded entry now proposed is supported.

Request waste management contributions for this development in line with the table below from the Planning Contributions and Affordable Housing SPD, as a communal arrangement is proposed, the higher rate would apply.

Drainage Engineer (Torbay Development Agency): No objection.

Further to the email dated 5th February 2024 the revised surface water drainage design is considered acceptable, there is no objection on drainage grounds to planning permission being granted for this development.

Devon County Council Ecologist: No objection.

Suitable for approval on ecology grounds subject to conditions restricting external lighting, compliance with the submitted Ecological Impact Assessment, demolition/clearance works to be undertaken outside the nesting season unless surveyed and found absent, submission and approval of a Construction Ecological Management Plan.

Tree Officer (SWISCo): No objection.

The application property does not currently contain any trees or hedges, the proposal includes a soft landscaping scheme with structural tree elements that will deliver amenity and enhancement of the property frontage and street scene. Recommend drawings 923-M1 & 923-M2, that set out the landscape schedule and nursery stock specification, should be secured by planning condition if planning permission is granted.

Torbay Council Community Safety Officer: No objection.

Police Designing Out Crime Officer: No objection.

From May 2023 Police have received seven calls about the hotel building which are mainly regarding persons breaking into the unoccupied building, or about drugs use at the premises. If the building is left in its current state that the problems will continue and will increase demand to police whilst potentially impacting the local community.

Crime, fear of crime, anti-social behaviour and conflict are less likely to occur if attributes of Crime Prevention through Environmental Design (CPTED) are considered in the design and layout of the proposed scheme:

It is recommended that an internal door is installed to create a lobby area which prevents onward movement into the building, an access control system is installed, consideration be given to CCTV and security lighting, ground floor window restrictors be considered along with self-closing external doors, and management of communal areas be formalised, in part to aid security. Security arrangements around the waste store should also be considered.

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

The site is a disused brownfield site located in a central urban area of Torquay that has a mixed residential and holiday character, is close to designated local centres and the town centre, and offers good access to shops, services and transport options.

National guidance contained within the NPPF presents clear support for the principle of using land effectively to meet the need for homes and guides that decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes. It also promotes support for the development of under-utilised land and buildings, especially where proposal would help to meet identified needs for housing (Paragraph 124).

In terms of the local Development Plan the broad principle of residential development is supported considering the brownfield character of the site and its central urban location. Core guidance is offered in Policies SS3, SS12 and H1 of the Torbay Local Plan, supporting proposals for new homes in the built-up area (subject to wider policy consistency), promoting the re-use of brownfield land, and the need to provide homes

and meet housing needs. In terms of the Torquay Neighbourhood Plan Policy TS4 also offers broad support for development proposals for brownfield sites, providing there are no significant adverse impacts, again having regard to other policies in the plan.

In terms of the site-specific context and matters of principle, the buildings current holiday use and the resultant loss of this as a tourism facility is a material consideration, notwithstanding that it does not sit within a Core Tourism Investment Area (CTIA). In terms of Development Plan guidance Policy TO2 of the Torbay Local Plan allows the change of use of holiday accommodation outside of CTIAs where the quality and range of facilities are not undermined, and where either the site is of limited significance, or demonstrated that there is no reasonable prospect of the being used for tourism purposes, or regeneration or other benefits that outweigh the loss of tourism accommodation or facilities. The hotel is not considered minor or insignificant as a 25-bedroom business, but in turn it is not major when considering other influencing factors aside simply its scale. There is for example no locational factors or on-site facilities that make this medium sized hotel special to, in turn, move it into the category of it presenting a 'major' contribution to tourism in the area. All matters considered it is concluded that the loss of the holiday use is acceptable under Policy TO2, as the holiday character of the area would not be undermined and that the site is of limited significance in terms of its tourism offer/facilities.

In terms of the Torquay Neighbourhood Plan Policy TT1 offers that outside CTIAs the change of use to residential dwellings from tourism properties will be supported subject to the site being of limited significance to the tourism setting. The policy states this would be typically 10 letting rooms or less of serviced holiday accommodation, or there is a lack of viability for tourism (including that it can be demonstrated that the current business has been marketed on realistic terms for 12 months without sale), or at least half of the units within the property are already of Class (C)3 residential status. The hotel has 25 bedrooms however the general quality of rooms and facilities appear, from the submitted details, to be of relatively limited and poor quality. It is not evident that marketing details compliant with the policy expectations have been submitted and hence there is some conflict with Policy TT1. However, this conflict is considered limited when considering the quality and quantity of accommodation offered, and such conflict should be weighed in the round and against the benefits of housing where there is a pressing local need, and where the site is very sustainable in terms of its central location.

The presumption in favour of sustainable development applies considering that the Council's 4-year housing supply shortfall and, as a matter of principle, the loss of tourism use does not present any adverse impacts that would significantly and demonstrably outweigh the benefit of granting permission.

For the reasons above the principle of the change of use through the sites redevelopment from the current tourism use to residential is considered to be comfortably aligned with national guidance contained within the NPPF and aligned with the aspirations of the Development Plan, specifically in regard to the aims and ambitions of Policies SS3, SS12, H1 and TO2 of the Torbay Local Plan and Policies TS4 and TT1 of the Torquay Neighbourhood Plan.

2. Heritage, Design and Visual Impact

The site holds a building that dates from the late Victorian period which was originally a pair of semi-detached properties. The site sits within the boundary of the Torre Conservation Area and forms part of the setting to two adjacent conservation areas, Belgravia Conservation Area to the south across Falkland Road and Tormohun Conservation Area to the east, which sits across the boundary of the site. These conservation areas are designated heritage assets and the building itself, which is identified as an 'Important Building Group' and as a 'Key Building' within the Torre Conservation Area Character Appraisal, is considered a positive element within the conservation area and a non-designated heritage asset. It is relevant to note that the building suffers from some decay and harmful extensions, largely to the rear, are present. The expanse of hardstand to the rear is also an incongruous element. For context the adjacent buildings to the south and east are similarly considered to be non-designated heritage assets contributing positively to their respective conservation areas.

For proposals affecting heritage assets the NPPF (Paragraph 203) guides that decision making 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.

The NPPF further outlines that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Paragraph 206), and that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Paragraph 208). Important context is also provided within Paragraph 205 of the NPPF, which outlines 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), and this is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

It is also incumbent on the Authority, in exercising its duties, under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 (S72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The application seeks to demolish the existing building and replace it with a modern apartment block, 4-storeys in height, finished in stone, render and metal cladding. The proposed building will present a broadly similar width and depth of building and the uppermost height of the proposed will be broadly similar, with the top of the flat roof being only 0.8m higher than the central fronting gable element of the existing

building. However, notwithstanding these broad parameters, the overall massing of the proposed building will present a considerable larger form of development when considering the stepped and pitched form of the existing development. Notably the proposed 'eaves' of the principal elevation, offered by the parapet, will be 3.4m higher than the existing eaves of the gabled roof. In addition, although the uppermost rise in height is less than 1m the rise is much greater away from the central gabled feature, with the building height increase being 2.7m to the side ridge heights parallel to Falkland Road and 3.7m higher than the ridge heights of the rear wings. This presents a significant increase in mass and bulk of building to that which exists.

The submission is supported by a Design and Access Statement, Heritage Assessment, and Conditions Survey, which accumulatively present supportive detail for the removal of the existing building, including reasoning of its limited heritage value and viability concerns on reinvention of the holiday use or conversion to residential use. The detail also outlines the design ethos for the replacement building.

Objections and concerns have been raised regarding the demolition of the existing building and the form of the proposed replacement building by Historic England, The Victorian Society, and the Council's Principal Historic Environment Officer. There is also noted concern from the Torquay Neighbourhood Forum and within public representations. Summary guidance from the consultees cited are generally aligned, concluding that the building is a positive element within the designated heritage asset of the Conservation Area, and its' loss and replacement with the form of development proposed would be harmful, which would be counter to policy guidance.

Considering the comments received from 3rd parties, and having visited the site and immediate area, the existing building is deemed a positive element within the Conservation Area, with a distinctive form and intrinsic historic materials and characteristics apparent. This is notwithstanding deleterious extensions and incongruous expanse of handstand to the rear.

Whilst the replacement building offers a footprint and height loosely comparable to the existing building the pitched roof form and stepped building form of the existing building will present a substantial increase in the overall height and massing of the built form on the site through the proposed redevelopment. The resultant height and mass of building will be unduly dominant within the plot, fails to respond positively to the historic character, and the sites constraints. The proposal will present a notable crowding of the western boundary where the height and depth of building will remove the sense of spaciousness between buildings.

In terms of design and materiality the buildings stone plinth is considered to sit awkwardly within the historical context and within what is a largely level site, and the extent and form of the 'roof' element is somewhat underdefined and would sit uncomfortably as a finishing upper floor 'roof' element. The balcony system set of the rear elevation is also considered an underdeveloped solution to a secondary but prominent elevation facing the proposed parking area and Lime Avenue.

To the rear of the plot the redevelopment presents little softening of the plot with 450sqm of hardstand for the parking of cars and manoeuvring, which will dominate the rear of the plot. The existing hardstand is a harmful and incongruous element of

the current plot, and the proposal fails to respond positively in terms of the NPPFs aspirations for development to seek to better reveal the significance of heritage assets (in this case the conservation area as the designated heritage asset and the building as a non-designated heritage asset). The proposal will secure, for the life of the development, an unsatisfactory and dominant hard character to the plot and doesn't address a clearly deleterious parking layout serving the plots more recent holiday use.

All matters considered the summary position is that the current building is a positive element within the Torre Conservation Area and the proposed development, by reason of the removal of this building and its replacement presenting a height and mass of building that would be unduly dominant within the plot, which would present a detailed design that would be harmful to the character and appearance of the area, with this said harm exacerbated by overly dominant parking to the rear of the plot.

In the circumstance the development would lead to less than substantial harm to the Torre Conservation, and less than substantial harm to the setting of the adjacent Belgravia Conservation Area and Tormohun Conservation Area, all designated heritage assets. The loss of the existing building would also lead to the total loss of its significance as a non-designated heritage asset, and this should be taken into account within the balancing exercise in accordance with Paragraph 209 of the NPPF.

In light of the above context it is relevant to note that when considering a proposal involving a number of heritage assets, if less than substantial harm is found in respect of a number of assets, more weight can reasonably be attached in the overall planning balance to a number of "less than substantial" harms than would be the case if only one asset were (less than substantially) harmed.

In such a circumstance where a proposal will lead to less than substantial harm to the significance of a designated heritage asset/s, Paragraph 208 of the NPPF requires the harm be weighed against the public benefits of the proposal. The main public benefits of the scheme would result from the provision 14 apartments in a sustainable location. In this instance the benefits that are offered by the development do not outweigh the harm to the designated heritage assets and the loss of the non-designated heritage asset, the building. This conclusion has regard to the duties within the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas.

For the reasons above the development is considered contrary to Paragraphs 135, 139, 195, 203, 205, 208, 209 and 212 of the NPPF and Policies SS10, SS11 and DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan. Support for the proposal would also conflict with the requirements of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

3. Residential 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 and where crime and disorder,

and the fear of crime, do not undermine the quality of life or community cohesion and resilience (Paragraph 135).

The Torbay Local Plan contains policy guidance aligned with the aspirations of the NPPF, principally through policies SS11, H1 and DE3, towards ensuring that residential development produces high-quality living environments that present a good level of amenity for future users and neighbouring occupiers. Policy DE3 also identifies size standards for self-contained units, which reflect national space standards.

The site's central location close to local shopping areas and the town centre, as well as its relatively close proximity to bus routes and two train stations is considered positive, presenting a sustainable location for the future users, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options.

In terms of the proposed units the proposed building will deliver 6x 1-bed units and 8x 2-bed units, ranging in size from 60sqm to 85sqm for the largest unit. All units meet or exceed the minimum National Space Standards, which are also engrained within Policy DE3 of the Torbay Local Plan, and key living spaces are also generally well scaled and proportioned and offer adequate outlooks and levels of natural light. These aspects are positive influences in terms of future amenity levels for occupiers.

In terms of outdoor amenity space guidance is offered in Policy THW4 of the Torquay Neighbourhood Plan and Policy DE3 of the Torbay Local Plan, with a consistent expectation that flats or apartments should no less than 10sqm per unit either privately or communally. Most apartments will have some form of outdoor space in the form of access to the ground floor gardens, or via terraces or balconies. 2 units will be absent of private outdoor space and 4 units will be served with balconies below the Development Plan expectation. The provision of outdoor space will be positive and would enhance the quality of the internal residential environments. The absence of provision for some units and the provision below 10sqm for others is not considered overly harmful to the quality of the residential environments for occupants considering the central location and ease of access to public parks and beaches. Hence, notwithstanding policy guidance on size of spaces within the Development Plan, the provision is considered acceptable within the wider assessment of the expected future occupier amenity levels achieved.

In terms of key ancillary elements cycle and mobility scooter parking is to be provided in a safe and secure facility within the entrance area of the building, at a level in accordance with policy guidance (1 space per apartment). The cycle parking is considered acceptable. In terms of waste there is an assigned storage area at lower ground floor level to the side with access to the adjacent service lane. The area is deemed to present sufficient storage space for the necessary bins within adequate distance for occupiers to use and acceptable collection-wise, where the lane is used by the local authority collection services.

In terms of impacts upon adjacent occupiers the proposed use is comfortably aligned with the mixed residential character of the area and such a use would generally not impact adjacent buildings and occupiers. In terms of light and outlook adjacent

properties and uses to the north and south would not be unduly impacted due to the generous distances across land and public highways. To the east the relationship is considered acceptable to what appears largely holiday accommodation, with 14m-16m to the staggered upper building lines. To the west residential uses exist and the additional height and bulk of the development, in close proximity to the boundary of the plot, will present an unduly dominant and enclosing form of development, which would impact the amenity of occupiers of 'Cherryside', affecting the quality of the outdoor amenity space, outlook of an adjacent room within 10m of the development, and present potential overlooking. It is however noted that the loss of privacy could be addressed by amending the obscure glazing proposed by the applicant to include the first-floor windows on this side.

The proposal is considered acceptable having regard to the amenity levels afforded future occupiers of the development. However, in regard to the amenity afforded adjacent occupiers, the proposal is considered to present undue harm on the living conditions and external environment of 'Cherrytrees' to the west, by reason of loss of outlook and light to a facing first floor room and loss of outlook and light to the outdoor amenity space. For these reasons the proposal is considered contrary to the aims and objectives of Policies SS11, DE1 and DE3 of the Torbay Local Plan and guidance contained within the NPPF, including that contained with Paragraph 135, where development should ensure to create spaces with a high standard of amenity for existing and future users.

4. Highways and Movement

The NPPF guides that appropriate opportunities to promote sustainable transport modes should be ensured, and that safe and suitable access to the site should be achieved for all users (Paragraph 114). It also furthers that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Paragraph 115).

Development Plan objectives align with the aspirations of national guidance with principal guidance within Policies TA1, TA2 and TA3 of the Torbay Local Plan encompassing outcomes for developing a sustainable model of transport, providing a good standard of access for walking, cycling, public and private transport modes, standard for parking and cycling facilities. The Torquay Neighbourhood Plan reinforces the guideline parking requirements contained in the Local Plan through Policy TH9 and more broadly offers support for new development proposals where they are located on or near to public transport routes wherever possible and appropriate through Policy THW5.

The site's central location is considered a good location for residential development and one that could meet the travel needs for occupiers equally, not just car owners, whilst also presenting options for sustainable modes of local travel for all. The development of the site for housing presents a basis for development that accords with the broad policy direction of supporting proposals that can offer or promote sustainable travel patterns.

In terms of impact on the general road network there are deemed to be no significant impacts from 14 apartments on a site that currently holds a 25-bed hotel (albeit currently closed) in terms of capacity or congestion in the general area. Bringing the site back into a purposeful use will increase movement however any residual or accumulative impacts on the network would not be significant.

In terms of access the proposal presents an enhanced single vehicular access point off Lime Avenue, which is a short road that is not heavily trafficked due to it providing no through route. The access and residential car use is deemed safe and suitable and is supported by the Highway Authority.

In terms of the provision of car parking and cycle parking facilities Policy TA3 and Appendix F of the Torbay Local Plan provides the policy context, which is supported by Policy TH9 of the Torquay Neighbourhood Plan. Appendix F identifies an expected requirement of 1 car parking space per apartment and appropriate visitor parking. The development provides 1:1 parking with 14 spaces but does not provide visitor parking. In the context of the site's central location the parking provision, which is compliant except for the absence of visitor parking, is considered to be acceptable. there is unrestricted parking along Lime Avenue that can provide visitor parking, and the site is accessible for non-car modes.

In terms of the form of parking guidance notes state that in flatted developments 20% of available spaces should have electric charging points and that there should be 10% of spaces suitable for disabled users. The proposal delivers 100% of spaces served with electric charging, which is a positive overprovision to the policy guide, and provides 2 accessible car spaces, which is considered acceptable.

Cycle parking is provided to a policy compliant level of 1:1 within a safe and accessible location, and mobility scooter storage is also provided.

With all matters considered it is deemed that the development would not present undue impact due to the absence of visitor parking on site and the level of parking is deemed acceptable within this particular context for the reasons above. The proposal is considered acceptable on highway and movement grounds, as the development is in a sustainable location with adequate car and cycle parking facilities, in accordance with Policies TA1, TA3 and DE1 of the Torbay Local Plan, Policies TH9 and TTR2 of the Torquay Neighbourhood Plan, and the NPPF.

5. Ecology

NPPF provides guidance 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 180). The Development Plan frames similar aspirations principally through Policy NC1 of The Local Plan and Policy TE5 of the Torquay Neighbourhood Plan, the latter in terms of impacts upon any existing protected species or habitats.

There is limited ecological value within the site, which is a heavily developed urban plot dominated by the building and hardstanding, with landscaping limited.

The application is supported by an ecology report that concluded that the site is of relatively low ecological interest, but that enhancements should be included within the scheme, in line with local and national policy. These included 2 x self-contained, self-cleaning crevice type bat boxes installed behind cladding or hanging tile finishes on each elevation of the new building (8 total), and 4 x sparrow terraces installed behind cladding or hanging tile finishes on north and east elevation of the new building (8 total). The report confirmed that absence of bats but the presence of pigeons.

The ecology report has been reviewed by a county ecologist at Devon County Council and it has been confirmed that the proposal is suitable for approval on ecology grounds subject to conditions to implement the recommendations for enhancement within the ecology report, no external lighting, no vegetation clearance or building work within the nesting season unless surveyed, and the submission of a Construction and Ecological Management Plan.

Subject to conditions the proposals are considered in accordance with the aspirations of Policies SS8, DE1 and NC1 of The Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

The NPPF provides guidance towards avoiding inappropriate development in areas of flood risk by directing development away from areas at higher risk (Paragraph 165), and when determining applications seeks local planning authorities to ensure that flood risk is not increased elsewhere (Paragraph 173). The local Development Plan offers similar expectations for ensuring the risk of flooding is not increased, together with expectations that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, through Policy ER1. ER1 also outlines a hierarchy for water-flow management within new development, with similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay.

The site is in a low-risk flood zone (Flood Zone 1) and is not in an area susceptible to surface water flooding. From this it is concluded that a change of use to residential is not sensitive in terms of flood risk, subject to ensuring that the risk of flooding is not increased within the site or to land or buildings adjacent, including the public sewer network.

The submitted drainage information details a controlled discharge to the public sewer. Initial concerns were raised by the Council's Drainage Engineer, and these concerns remained notwithstanding positive and proactive working with the agent to secure further detail on this matter. However following the recent submission of further detail, the Council's Drainage Engineer is now satisfied that the proposal will not increase the risk of flooding within the site or to land or buildings adjacent and is thus suitable for approval on drainage grounds. This is based on the information now demonstrating that the surface water drainage has been designed for the critical 1 in 100-year storm event plus 50% for climate change.

The proposal is now considered acceptable on drainage and flood risk grounds, in accordance with Policy ER1 of the Torbay Local Plan and guidance contained within the NPPF, notably Paragraph 173.

7. Low Carbon / Climate Change

The NPPF guides that the planning system should support the transition to a low carbon future in a changing climate, including helping to shape places in ways that contribute to radical reductions in greenhouse gas emissions, and support renewable and low carbon energy and associated infrastructure (Paragraph 157).

Policy SS14 of the Torbay Local Plan supports national guidance and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities.

The Design and Access Statement submitted in support of the proposal includes an Energy Section, and there is also a sustainability checklist supplied as supporting information.

The submission states the current building fabric is very poor which presents a very high energy demand for the hotel. The development in turn would present aim to meet or exceed the stringent criteria of 2022 Building Regulation Part L1 and thus would yield a significant carbon reduction in lifetime use relative to the present building.

The methods stated to reduce energy demand include:

- Minimum walls thickness of 350mm with insulation.
- Thermal bridging to be reduced.
- Junctions will be air sealed to ensure better than required air tightness, monitored on site through pre-completion pressure testing.
- Air source heat pumps for heating & hot water demand within the plant room.
- Solar PV on the roof and battery storage in the plant room.
- The loss of embodied carbon through demolition would be partly mitigated by large parts of the building possibly requiring demolition due to (i) dilapidations or structural failures, (ii) for layout improvements, (iii) to restore elements of the early facades, (iv) to remove asbestos and other health hazards from the building.

The sustainability checklist submitted cites positive outcomes in terms of the sites central location and potential non-reliance on cars, the provision of electric charging points over-and-above the policy level, the re-use of materials where possible within the build and the use of green roofs, positive outcomes for ecology, and use of renewable energy forms.

The ambitions of the energy section and sustainably statement are supported and should be secured by a detailed planning condition if consented.

The development is, for the reasons above and subject to the detailed condition, considered in accordance with Policies SS14 and ES1 of the Torbay Local Plan and guidance contained within the NPPF.

8. Secure Design

The NPPF guides that decisions should aim to achieve buildings and places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion (Paragraph 96). Policy TH2 of the Torquay Neighbourhood Plan is aligned with the NPPF, promoting 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. Similarly, Policies SS11 and DE1 of the Torbay Local Plan includes reference that schemes should help prevent and/or design out opportunities for crime and disorder.

The application package is absent of specific detail on security, crime and disorder beyond passing note on the sites current issues with crime and antisocial behaviour, and the development's passive surveillance benefits if delivered.

In the context it would be deemed necessary to secure detail that establishes measures to reduce the developments susceptibility to crime and measure to positively influence reducing crime and disorder if approved. It is deemed that these measures can be secured by a planning condition, which would seek to respond positively to the comments provided by the Police Design Out Crime Officer.

In the context the proposal is considered suitable for approved in terms of security of design subject to a planning condition for details to be submitted and approved prior to the commencement of development above ground level (excluding demolition), to secure development in accordance with Polices SS11 and DE1 of the Torbay Local Plan, Policy TH2 of the Torquay Neighbourhood Plan and guidance contained within the NPPF.

Sustainability

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

The Economic Role

Housing provision is a driver of economic growth and there would be economic benefits of bringing the site into use and into a residential use. However, counter to this, the sites current use as a hotel would present economic benefits if the current use commenced. In light of this the economic benefits of redeveloping are unclear.

The Social Role

The principle social benefit of the proposed development is that it would help deliver 14 units of good standard within a central location. However, counter to this it is not clear whether similar benefits could not be delivered without the heritage harm cited within this report. Considering the social value of heritage assets and the potential

that similar housing benefits could possibly be delivered without the concluded harm to heritage assets, the social role is considered negative. This judgement includes the social harm on the amenity of the adjacent occupiers of 'Cherrytrees'.

The Environmental role

The environmental benefits are considered neutral. The loss of the building doesn't utilise the embodied energy of the structure which weighs negatively against the scheme. However, the new building will present improved construction methods and heightened levels of energy efficiency compared to the existing building which will present ongoing benefits for the lifetime of the development in terms of reduced energy usage. There are also benefits in terms of improved surface water management and ecological enhancements, but harm in terms of heritage assets.

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent a broadly sustainable form of development when considered in the round but presents harm to heritage assets and impacts neighbour amenity.

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

CIL

The land is situated in Charging Zone 1 in the Council's CIL Charging Schedule and residential units is chargeable development, this means that all new floorspace will be charged at a rate of £30/sqm unless exempt.

Based on the submitted CIL form, which provides an indication, subject to formal determination, the proposal would deliver 996sqm of CIL liable floorspace and seeks 735sqm of exemption for the existing floor space, which has been within use for more than 6 months within the last 3 years. This is likely to present a CIL payment of £7,830.

S106

Site Acceptability Matters: None.

Affordable Housing: N/A for this scale of development on a brownfield site.

Sustainable Development Matters: N/A as CIL liable development.

As such no S106 legal agreement is considered necessary were planning permission granted.

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: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites.

Planning Balance

The relevant legislation requires that the application be determined in accordance with the statutory development plan unless material considerations indicate otherwise. As concluded within this report there is substantial conflict with the Development Plan, and the NPPF, in terms of heritage impacts and matters of neighbour amenity, and hence consideration needs to be given as to whether material considerations indicate that the application should be approved.

The Government published the most recent Housing Delivery Test in December 2023. Torbay's result is 55% (i.e. between 2019-22 there were only 55% as many completions as the number of homes required). Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall.

In terms of benefits 14 apartments, providing 1 and 2 bed accommodation, would make a moderate contribution to local housing supply. This would be consistent with national guidance that seeks to significantly boost the supply of homes. The proposal does not include any affordable housing which would have boosted the public benefit. In addition, social, economic and environmental benefits associated with building and occupying homes weigh in favour of the development, and there is also some minor benefit from the discounted CIL payment.

The development will present acceptable residential environments that principally accord with development plan expectations and National Space Standards. This compliance weighs neutrally in the decision making. However, the development will present undue harm to the living conditions of adjacent occupiers, as identified within this report, which weighs negatively against the development.

Due consideration should be is given to the NPPFs recognition towards support for the development of windfall sites, where great weight to the benefits of using suitable sites within existing settlements for homes should be given.

However, the NPPF also seeks to conserve the historic environment so that it can be enjoyed for its contribution to the quality of life of existing and future generation,

furthering that heritage assets are an irreplaceable support and should be conserved in a manner appropriate to the significance of the asset (Paragraph 195). The NPPF furthers that great weight should be given to the asset's conservation irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Paragraph 205). Heritage harm has been identified by Historic England, The Victorian Society, and the Council's Principal Historic Environment Officer. It is also a stated concern from the Torquay Neighbourhood Forum. These comments in combination are deemed to hold substantial weight regarding the matter of the development's heritage impacts.

Finally, weight must also be afforded the duties within the Planning (Listed Buildings and Conservation Areas) Act 1990, S72(1), to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Drawing matters together the harm to the historic environment and the amenity of adjacent occupiers, conflict with policies within the Development Plan, which are consistent with aims within the NPPF. These are important factors that weigh against the proposal. Housing need is itself an important factor but must be balanced with other considerations to inform whether development is sustainable development in the round.

The public benefits in this case do not provide a clear and convincing justification to outweigh the identified harm. In addition, by virtue of the identified heritage harm, which provides a clear reason for refusing the proposed development, the presumption in favour of sustainable development has been considered in this recommendation.

Conclusions and Reasons for Recommendation

With all matters considered, as detailed within this report, it is concluded that the proposal would harm the significance of heritage assets. The NPPF guides that when considering the impact of proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It is concluded that the public benefits of the proposal do not outweigh the less than substantial harm that would result to the heritage asset, and the harm to neighbour amenity. For these reasons the application is recommended for refusal, as detailed below.

Officer Recommendation

Refusal; for reasons of;

1. The development, by reason of the demolition of the existing building and the layout, height, massing, and detailed design of the proposed development, would fail to preserve or enhance the character and appearance of the Torre Conservation Area, which would result in harm to this designated heritage asset, would harm the setting of the Belgravia Conservation Area and Tormohun Conservation Area, and would lead to the total loss of the current buildings significance as a non-designated heritage asset. As such the development is considered contrary to Paragraphs 135, 139, 195, 203, 205, 208, 209 and 212 of

the NPPF and Policies SS10, SS11 and DE1 of the Torbay Local Plan, and Policy TH8 of the Torquay Neighbourhood Plan, and the requirements of S72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development, by reason of the addition height and massing of the proposed building adjacent to the western boundary with 'Cherrytrees', would adversely impact the amenities of adjacent residents, resulting in an undue loss of outlook and light to the property's amenity space and internal accommodation. As such the development is considered contrary to Paragraph 135 of the NPPF and Policies SS11, DE1 and DE3 of the Torbay Local 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 so that where possible relevant planning concerns have been appropriately resolved. In this instance not all matters could be resolved and thus the Council has concluded that this application is unacceptable.

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS10 – Conservation and the historic environment
SS11 – Sustainable communities
SS12 – Housing
SS13 – Five-year housing land supply
TO2 - Change of use of tourism accommodation and facilities
TA1 - Transport and accessibility
TA2 - Development access
TA3 – Parking requirements
H1 - Applications for new homes
DE1 - Design
DE3 - Development Amenity
DE4 - Building heights
ER1 - Flood Risk
ER2 - Water Management
ES1 – Energy
W1 - Waste management facilities
W2 – Waste audit for major development and significant waste generating developments
NC1 - Biodiversity and geodiversity
C4 – Trees, hedgerows and natural landscape features

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH8 - Established architecture

TH9 – Parking facilities

THW4 – Outside space provision

THW5 - Access to sustainable transport

TH2 - Designing out crime

TE5 - Protected species habitats and biodiversity

TTR2 – Sustainable communities

TT2 - Change of Use in Conservation Areas and Listed Buildings