

Application Site Address	Seabury Hotel 11 Manor Road Torquay TQ1 3JX
Proposal	Demolition of existing hotel building and erection of 14 residential apartments, and associated parking and landscaping.
Application Number	P/2023/0721
Applicant	8 Tech Homes Ltd
Agent	McMurdo Land Planning And Development
Date Application Valid	15.08.2023
Decision Due date	14.11.2023
Extension of Time Date	03.05.2024
Recommendation	Refusal for the reasons given at the end of this report. Final drafting of these reasons, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Divisional Director responsible for Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	Major Development.
Planning Case Officer	Emily Elliott



Location Plan
Scale (A1): 1:1000

Site Details

The site is occupied by a Victorian Villa and its curtilage, sited at the corner of Manor Road and Stanley Road, Torquay. While the original building dates from 1830s-1860s, it has been extended by way of a number of more recent extensions that detract from its historic character to some extent. The established hotel use has not operated since the COVID pandemic.

The site is located within the St Marychurch Conservation Area. The St Marychurch Conservation Area Appraisal (CAA) does not identify the subject property as a key building within the conservation area, but draws attention to the prominent stone walls and mature trees along the plot boundaries. The site is in proximity to a Grade II listed building, namely No.205 St Marychurch Road which is opposite the site on the north-western side of Manor Road. The site is also located within Flood Zone 1, which is a Critical Drainage Area. The site is located outside of, but around 200 metres to the northeast of, a Community Investment Area, and is located outside of the Core Tourism Investment Area.

Description of Development

This is a full application for the demolition of the existing hotel building and associated ancillary buildings and the erection of 14no. 2-bed residential apartments with associated parking and landscaping.

The apartment block is proposed central to the site, is a single L-shaped building and covers a footprint of approximately 36 metres long by 21.5 metres deep at the widest parts. The proposed apartment block would be three storeys with a turret corner element. The base material is white render with the intermittent use of grey render and a small element of stone facing to the south western elevation, under a hipped slate roof.

The vehicular access is maintained within the existing location which is access from Manor Road. In terms of car parking the development provides 14 spaces, which is located within the north western section of the application site. This presents 14 spaces for the proposed 14no. units which remain unassigned and no provision of visitor spaces.

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"); and
- The Adopted Torquay Neighbourhood Plan ("The Neighbourhood Plan")

Material Considerations

- National Planning Policy Framework (NPPF);

- Planning Practice Guidance (PPG);
- Published Standing Advice;
- Heritage setting, within a Conservation Area (St Marychurch) and within the setting of the No.205 St Marychurch Road (Grade II listed building).
- Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990: Sections 66 and 72; and
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

Planning Application: P/2022/0908: Demolition of the existing hotel building, erection of a self contained block of 21 flats with basement parking and associated works. Withdrawn 26/10/2022.

Planning Application: P/2021/0520: Change of use from hotel to 12 flats, including the demolition of existing extensions, and the erection of a new extension and new building. (as amended). Approved 18/03/2022.

Planning Application: P/2013/0909: Extend time limit (re P/2010/0736) First Floor Extension With Pitched Roof Over; Extended Reception Area. Approved 17/09/2013.

Planning Application: P/2010/0736: Extend time limit - first floor extension with pitched roof over; extended reception area - application P/2007/1576/PA. Approved 20/08/2010.

Planning Application: P/2007/1576: First Floor Extension With Pitched Roof Over; Extended Reception Area. Approved 06/11/2007.

Planning Application: P/1998/1187: Alterations And Erection Of Extension To Form Conservatory To Existing Lounge At Rear (As Revised By Plans Received 14/9/98). Approved 22/09/1998.

Summary of Representations

11 representations, 1 support, 10 objecting. Key issues as follows:

Comments in support include:

- it provides houses.
- It provides jobs.
- Impact on the local area.

Concerns include:

- Impact on the local area.
- Not in keeping with the local area.
- Impact on the conservation area.
- Sets a precedent.
- Drainage.

- Noise.
- Overdevelopment.
- Privacy/overlooking.
- Traffic and access.
- Trees and wildlife.
- Loss of tourist accommodation.

Summary of Consultation Responses

Torquay Neighbourhood Forum (Comments dated 29.10.2023):

The Applicants have engaged with the Steering Group, and presented their proposals at the Steering Group Meeting on 10 October 2023. The Forum has noted that a number of Objections have been submitted regarding the design. The current building, not being Listed, has accumulated some ugly extensions around the Victorian core. The Steering Group considered that the proposed design was an improvement over previous proposals, and probably represents the best compromise by maintaining some characteristics of the Victorian style while providing sufficient dwellings to be viable.

Seabury Hotel is outside the Core Tourism Investment Area (CTIA). In view of the housing shortage in Torbay, the Forum accepts the conversion to residential use.

Compliance with Development Policies has been assessed in the attached Policy Checklist, and the proposal complies with the majority of Policies.

In conclusion, the Forum supports the proposed development.

Torbay Council's Strategy & Project Management Officer (Comments dated 20.10.2023):

1. Housing delivery and efficient use of land

In the context of a lack of a five year supply of deliverable housing sites, Paragraph 11(d) of the NPPF sets up a 'tilted balance' in which permission should be granted unless:

- (i) The application of policies in the NPPF that protect areas or assets of particular importance (*which includes designated heritage assets including Conservation Areas and Listed Buildings*) provides a clear reason for refusing the development, or
- (ii) Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole.

The NPPF paragraphs on 'Conserving and enhancing the historic environment', together with Policy SS10 of the Local Plan, are therefore an important part of the assessment of the application. If there is a clear reason for refusal relating to the proposal's impact on a designated heritage asset, then the 'tilted balance' is not engaged. Matters of design and heritage impact are detailed Development Management matters that I will leave to your assessment.

Paragraphs 119 to 125 of the NPPF ("Making effective use of land") are also relevant to this application. In particular: Planning decisions should:

- Paragraph 120(c): “give substantial weight to the value of using suitable brownfield land within settlements for homes...”
- Paragraph 124: “support development that makes efficient use of land, taking into account:
 - (a) “the identified need for different types of housing ... and the availability of land suitable for accommodating it”
 - (d) “the desirability of maintaining an area’s prevailing character ... or of promoting regeneration and change”
 - (e) “the importance of securing well-designed, attractive and healthy places”.
- Paragraph 125: “... Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions ... ensure that developments make optimal use of the potential of each site.”

Setting aside matters of design, scale and massing which are detailed Development Management matters, the quantum of development proposed for the site (14 apartments on a 0.18ha site) appears to be generally suitable in relation to the intent of the abovementioned paragraphs which seek to promote the efficient use of brownfield land for housing delivery.

Policy TS4 of the Torquay Neighbourhood Plan states that development proposals for brownfield sites will be supported, provided there are no significant adverse impacts, having regard to other policies in the plan. Impacts would therefore need to be significant in order for brownfield development to not gain support from this policy.

Policy H1 and SS12 of the Local Plan provide support for housing delivery on sustainably located sites within the built up area, while Policy SS13 supports the maintenance of a five year supply of deliverable housing sites.

Weight therefore needs to be given to housing delivery and to making efficient use of a brownfield site, but this needs to be weighed against any potential heritage harm identified as part of your assessment of the proposal’s impact on the St Marychurch Conservation Area and the setting of nearby listed buildings, if applicable.

2. Principle of change of use from tourist accommodation to residential

Policy TO2 of the Torbay Local Plan states that, outside Core Tourism Investment Areas, the change of use of holiday accommodation will be permitted where:

1. The holiday character of the area and range of facilities and accommodation offered are not undermined; and,
2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TT1 of the Torquay Neighbourhood Plan states that change of use from tourist accommodation to residential on sites outside the Core Tourism Investment Areas will be

supported subject to, amongst other things, the site being of limited significance to the tourism setting, or the site lacking viability for tourism.

The previously approved application P/2021/0520 included viability reports which provide a reasonable basis for supporting the proposed change of use from holiday accommodation to residential in accordance with the criteria set out above. Although 12 months marketing data is not provided, other evidence pursuant to Policy TT1 of the TNP is provided. The character in the vicinity of the site is more defined by residential properties than by holiday accommodation, and the site is somewhat separate from the important tourism facilities and accommodation at Babbacombe Downs (which, unlike the application site, is designated as a Core Tourism Investment Area). Although the hotel has clearly received investment in the past, the type of accommodation and facilities appear to be available elsewhere, closer to key tourism locations. Given the site's location, the hotel's performance in recent years, and the pipeline of new hotels opening in the wider area, it appears unlikely that the loss of the hotel would adversely affect the tourism character of the area or the range of accommodation offered in Torbay. The proposed change of use would bring about public benefits in the form of housing delivery (in the context of a lack of a five year supply of deliverable housing sites).

In addition, Policy TT2 of the Torquay Neighbourhood Plan states that changes of use away from tourist accommodation within Conservation Areas will be supported in principle (subject to other policies) to ensure a sound future for such heritage assets. This policy therefore offers support in instances where a change of use helps enable the retention of a heritage asset, similarly to NPPF Paragraph 197a (which relates to putting heritage assets to viable uses consistent with their conservation). Given that this proposal is for the demolition of the building, this application does not benefit from the support offered by this policy. For clarity, the proposal is not in conflict with this policy (as the policy does not say that changes of use will *only* be supported where needed to enable the retention of a heritage asset), but rather should be seen as neutral with respect to this policy.

I therefore raise no objection to the principle of the proposed change of use.

3. Sustainable communities

Policy SS11 of the Torbay Local Plan seeks to secure development that contributes to improving the sustainability of existing and new communities within Torbay by, amongst other things, enhancing residents' quality of life, providing a good standard of residential accommodation, and delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

The proposal is for the brownfield development of 14 flats all of which would be 2- bedroom flats. The proposal therefore avoids an over-proliferation of small (1-bed) self-contained flats, albeit that the proposal does not provide much of a range of flat sizes. The proposal appears to be broadly consistent with the intentions of Policy SS11. Residential amenity and the quality of the living environment provided by the development (Policy DE3, Policy SS11) is a detailed Development Management matter that I will leave to your judgement. It may be worth considering, however, the quality of living environment afforded to future occupants of Flats 3, 7 and 13 which are effectively single-aspect and northfacing.

In this location, the use of the site for non-self-contained residential accommodation (HMOs) would amount to an overly intensive use of the site with the potential for negative impacts on neighbourhood amenity, and the exacerbation of existing social and economic deprivation. Therefore, if the application is supported, a condition of approval should be included requiring that the flats be used solely for C3 use and not for C4 use.

4. Drainage

As a policy team we are aware of the growing importance of reducing surface water drainage so as to limit the occurrence of combined sewer overflows. I note that the proposal mentions the use of permeable paving for the parking area; if the application is supported, a condition to secure this is recommended.

5. Low carbon development

As part of the assessment of the proposal in relation to Policies ES1 and SS14 of the Local Plan, the impact of the loss of embodied carbon due to the demolition of the building should be considered. I note that the submitted Energy Statement appears to be silent on this. Any operational benefits arising from positive elements of the design (such as the proposed use of air source heat pumps) will need to be weighed against the loss of embodied carbon. Any reusable building materials would need to be salvaged from the demolition.

6. CIL/s106

As per the CIL Charging Schedule, the proposed development is liable for CIL at a rate of £70 per sq m of chargeable floor space.

Torbay Council's Strategy & Project Management Officer (Comments dated 09.02.2024):

I have reviewed the additional information submitted by the applicant on 17 January 2024 and I consider the policy consultation response below to remain up to date. Since the response below, the NPPF has been updated and a written ministerial statement was issued on 19 December 2023. In broad terms, both appear to demonstrate to some extent the Government's additional emphasis on brownfield development. The 2022 Housing Delivery Test result has also been issued (Torbay = 55%). The presumption in favour of sustainable development is applicable (both as a result of Torbay's housing land supply position and housing delivery test result), unless your assessment of the application identifies a clear reason for refusal relating to a footnote 7 constraint (which includes designated heritage assets). In addition, the changes to Paragraph 14 of the NPPF (Dec 2023) offer the Torquay Neighbourhood Plan protection until June 2024.

As a side note in addition to the matters raised below, Policy SS5 of the Local Plan and the 2022 Planning Contributions and Affordable Housing SPD both seek the payment of loss of employment contributions in instances such as this. I believe that this was suggested in a planning policy consultation response to application P/2021/0520, although I note that the application was subsequently approved without the said contribution. Naturally any potential planning contribution needs to meet the statutory tests of lawfulness set out in Regulation 122 of the CIL Regs and Paragraph 57 of the NPPF (Dec 2023), and this is a matter for the case officer to consider as part of the planning balance and alongside all other material considerations.

Historic England (Comments dated 14.09.2023):

Significance

The core of the former Seabury Hotel is a mid-nineteenth century villa, one of many built in the area as it was developed from farmland into a suburb of Torquay. It is within the St Marychurch conservation area, and as the conservation area appraisal sets out, the Victorian character of the area is **fundamental** to its character. The villa is a typical example of its type, with stucco elevations, sash windows, a Welsh slate roof, and generous grounds, bounded by characterful walls in local stone. Like many villas within the conservation area, it has had a number of insensitive twentieth century extensions, which have masked its character and caused harm to the conservation area. However, it is still possible to recognise the core historic villa at the heart of the site, and it still makes a limited contribution to the conservation area. It is within character area 3 of the conservation area, which is summarised in the conservation area appraisal as '19th century villas'.

Impact

It is proposed to demolish all the buildings on the site, including the historic villa, and redevelop with a three storey residential building, in a Victorian style, with rendered walls, portrait shaped windows, an octagonal corner tower, and a degree of articulation. The loss of the historic villa would cause harm to the conservation area. Despite its insensitive additions, it still makes a contribution to the conservation area, being legible as one of the historic villas that are fundamental to the character and interest of this part of the conservation area. The scale of the new building is uncharacteristic of the villas in this part of the conservation area, as is the ratio of building to garden area. While the Victorian style proposed does in theory respond to the character of the conservation area, the massing and detailing proposed is unconvincing. The paucity of chimney stacks, the use of semi-circular window heads over square-headed windows, and the elephantine scale of the building compared to the original villa are just a few of the reasons why the proposed design fails to be a convincing evocation of a Victorian villa.

Consent was given by your Council for a scheme that would retain the core of the villa, remove the unsightly later extensions, and replace them with new extensions (P/2021/0520). Historic England were not consulted on this application. However, we note that the approved scheme was respectful of the remaining elements of the villa, introduced new build at a sympathetic scale, allowed the villa to retain its primacy in views from the street, and did not cause harm to the conservation area's character. Had we been consulted we would not have raised concerns.

Policy

Heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations (National Planning Policy Framework (NPPF), paragraph 189).

The conservation of heritage assets should be given great weight in decision making (NPPF, paragraph 199). The incremental erosion of the Conservation Area through loss of buildings that contribute positively to its character and appearance does not conserve it as a heritage asset and is harmful. Where harm is caused this must be clearly and convincingly justified (NPPF, paragraph 200).

It is for your authority to consider if the harm that we have identified can be balanced against public benefit (NPPF, paragraph 202). We draw your attention to the fact that an alternative scheme that would generate no harm has been consented. Conflict between the conservation of heritage assets and any aspect of development proposals should be avoided or minimised where possible (NPPF, paragraph 195).

Position

Historic England considers that the complete demolition of the former Seabury Hotel would cause harm to the St Marychurch Conservation Area (a designated heritage asset). It is one of the Victorian villas laid out in spacious grounds that are fundamental to the character of the conservation area, even when degraded by inappropriate extensions. It is suggested that the previously consented scheme that would have retained and restored the villa with new build in the grounds would not be viable. The viability study should be given careful scrutiny, but if your Council agrees with its conclusions, we suggest that retention of the villa with a larger but well-designed separate new build element would potentially be less harmful to the conservation area than the proposed scheme. The St Marychurch conservation area has poor prospects if its characteristic Victorian villas are to be replaced with unconvincing and overscaled imitations. The proposal as a whole does not preserve or enhance the Conservation Area.

Recommendation

Historic England has concerns regarding the application on heritage grounds.

We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 189-202 of the NPPF.

In determining this application you should bear 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. Your authority should take these representations into account and seek amendments, safeguards or further information as set out in our advice. If there are any material changes to the proposals, or you would like further advice, please contact us.

Devon County Council's Archaeologist & Historic Environment Manager (Comments dated 11.09.2023):

I have no comments to make, as there does not appear to be any impact on any sites or features of archaeological interest.

The Victorian Society (Comments dated 13.10.2023):

Seabury Hotel is a historic building within the St Marychurch Conservation Area. The area was developed c1860 and although the building has undergone much alteration its form and some detail is recognisably mid-19th century. Therefore, it makes some contribution to the character and understanding of the Conservation Area.

This proposal would see the demolition of the existing historic building and its replacement with no.14 apartments, rising to 4 storeys and designed in a contemporary idiom. This would

harm the significance of the Conservation by introducing a building whose scale and design is out of character with surrounding historic buildings, it would also negatively impact the setting of the Grade II listed Berkshire Court that neighbours the site. The Victorian Society understand that an approved application proposed to retain some of the historic building on the site, with new development respecting the existing scale. This was a far more sensitive response to the site and character of the Conservation Area and we recommend that this is pursued.

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.'* This proposal would not enhance or better reveal the significance of the Conservation Area, therefore we recommend its refusal and object to the application.

Historic Buildings and Places (Comments dated 21.09.2023):

We have concerns with the application due to the impact the proposal would have on the St Marychurch Centre Conservation Area.

The area around Manor Road was developed around the 1860s and while a lot of change has occurred within the CA, the general character is that of detached and semi-detached 19th century villas set within large garden plots. One of these villas is at the core of the Seabury Hotel, and while several poorly considered extensions were added in the mid C20, the original villa is still discernible.

The previous approved scheme for this site (application P/2021/0520) demolished those later additions and constructed two new elements, a modest extension to the villa and a separate apartment building, achieving a total of 12 apartments. While it was disappointing that elements of the original submitted design were lost, such as the hipped roof forms, the overall massing was generally more appropriate for the conservation area.

This current scheme proposes complete demolition, including the original villa, and construction of a single apartment block. The design, length of the building and the additional massing without spacing between the different elements is somewhat out of scale with the characteristic villa form within the CA. The loss of the original villa within the CA would further harm its historic interest and, surprisingly, the additional bulk and scale of the proposed new build compared to what is already approved only achieves an additional 2 apartments.

The argument that it is not a non-designated heritage asset is merely a distraction from the fact that so many Victorian villas have been lost or disfigured within the St Marychurch Centre Conservation Area. The approved scheme offered an opportunity to make a positive contribution to the CA by restoring the original villa and this should be the basis for any new development on this site. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires Local Planning Authorities to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation. Para 206 of the NPPF advises that new development is encouraged but must 'enhance or better reveal' the significance of the CA, stating:

'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. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.'

Further, chapter 12 of the NPPF (2021) seeks to achieve high quality places. Paragraph 126 states: *'The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'* Paragraph 130 – in part – goes on to state:

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

Recommendation: Submission of amended plans HB&P acknowledges the opportunities to regenerate and redevelop this site, however, the priority should be to ensure any new development is sensitive to the historic environment and enhances the conservation area. HB&P therefore recommends that an appropriate scheme is prepared that is sympathetic to the original villa on the site as well as the context of the local conservation area.

Torbay Council's Principal Historic Environment Officer (Comments dated 08.03.2024):
Relevant Policy

Section 72 (1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area. Section 66 (1) of the same act states that "In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses".

This statutory requirement needs to be considered alongside relevant heritage guidance contained in the National Planning Policy Framework (2023) which requires local planning authorities to identify and assess the particular significance of any heritage asset that may be affected by a proposal (Para 201).

Paragraph 203 goes on to state that in determining applications, local planning authorities should take account of:

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

- b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- c) the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 205 considers that ‘when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance’.

Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification’ (Para 206).

Paragraph 208 adds 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’.

With regards to non-designated heritage assets, paragraph 209 advises that in weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Should a heritage asset be lost either wholly or in part, paragraph 210 requires local planning authorities to take all reasonable steps to ensure that the new development will proceed after the loss has occurred.

Finally, paragraph 212 of the NPPF states that Local planning authorities should look for opportunities for new development within Conservation Areas to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favorably.

In terms of the Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policy SS10 and HE1 (Listed buildings) of the Local Plan).

Other relevant Local Plan policies for this application are Policy TO2 which states specifically that “where a change of use away from tourism is permitted, there will be a requirement to restore buildings or land to their original historic form.....A high priority will be given to restoring the character and appearance of buildings within conservation areas”.

With regards to the Torquay Neighbourhood Plan, Policy TH8 states that development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

Policy TT2 also has some relevance which states that changes of use away from tourist accommodation within Conservation Areas will be supported in principle (subject to other policies) to ensure a sound future for heritage assets. This policy therefore offers support in instances where a change of use helps enable the retention of a heritage asset, which is not the case with the proposed development.

Significance of Identified Heritage Assets:

With regards to heritage assets, the site is within the St.Marychurch Conservation Area and the setting of a Grade II listed building - 205 St.Marychurch Road. The building itself can also be tested against established criteria to assess whether it can be classed as a non-designated heritage asset.

Designated:

St. Marychurch Conservation Area

The site sits within the St. Marychurch Conservation Area within an area designated as Character Area 3 – 19th century villas.

The original villa on the site was constructed in the mid-19th century and is a typical example of its type built upon former agricultural/scrub land along the western approaches to St.Marychurch as it expanded into a suburb of Torquay.

The building is set within generous grounds which is recognised as one of the special characteristics of the conservation area within the conservation area appraisal which states that “the layout and orientation of much of the villa developments gives rise to a well-founded air of spaciousness” and that on the most part the original scale and proportion of the villa development, mostly of two-storeys has been maintained.

The building itself has undergone insensitive alteration as a result of its conversion to a hotel in the later 20th century which has had a detrimental impact on its external and internal character and appearance, however, its original form and elements of architectural detailing remain legible and therefore its origins and contribution to the evolution and character of the area can still be read.

As a result, the building does make a positive contribution to the character and appearance of the St. Marychurch Conservation Area.

205 St Marychurch Road

This villa is believed to have been constructed in the 1840s and was designated as a Grade II listed building in 1975. It has demonstrable architectural and historic value and is recognised within the St. Marychurch Conservation Area Appraisal as having one of the few unspoiled frontages in the area.

Setting is defined in the NPPF as “The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of

a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.”

The Planning Practice Guidance Notes that accompany the NPPF expand on this definition, stating: “The extent and importance of setting is often expressed by reference to visual considerations. Although views of or from an asset will play an important part, the way in which we experience an asset in its setting is also influenced by other environmental factors such as noise, dust and vibration from other land uses in the vicinity, and by our understanding of the historic relationship between places. For example, buildings that are in close proximity but are not visible from each other may have a historic or aesthetic connection that amplifies the experience of the significance of each.

It is considered that with regards to no.205’s setting, the asset is experienced within its own curtilage and also from a public perspective along Manor Road which allows views of the principal elevation and from the rear from St. Marychurch Road.

The building can still be read as part of the mid-19th century development of this part of St. Marychurch and therefore its wider setting and relationship with neighbouring villas of a similar age does make a contribution to its significance.

The application site can be found directly opposite on the other side of Manor Road and although the building is set back within the plot and is partially screen by a row of mature trees, the listed building and the application site can still be seen together in context. It is clear that the two sites share a visual and historic relationship between each other and other villas along Manor Road.

As a result, it can be concluded that the application site does form part of the setting of the Grade II listed building.

Non-Designated Heritage Asset:

The building has undergone insensitive alteration during its conversion to a hotel in the mid to late 20th century, however, the original core of the villa still remains and is legible. Therefore, it can also be tested to be a potential non-designated heritage asset using Historic England’s established criteria:

Asset Type	Detached villa in generous grounds, formerly residential use now vacant hotel. The building has undergone various extensions to accommodate additional rooms and spaces associated with its hotel use.
Age	mid C19th
Rarity	Detached and semi-detached Victorian villas are typical for the area and share a number of characteristics with regards to architectural detailing

	and materials. However, each villa appears to have been individually designed for their specific plot along Manor Road.
Architectural and Artistic Interest	Although the building has been insensitively altered and extended, some original external and internal detailing remains, and the form of the original building can still be read.
Group Value	Forms part of an informal group with a number of other villas of a similar age along Manor Road which denote this period of Victorian expansion.
Historic Interest	Demonstrates the mid-19th century development of this area and the expansion of St. Marychurch and the rise of Torquay as a fashionable destination in which to live and visit.
Landmark Status	Prominent feature within the street scene but is not specifically recognised as being a landmark feature within the local area.

Summary:

Although the building has been significantly altered as a result of its past conversion to a hotel, its original form and some areas of architectural detailing remain. The building has some architectural and historic interest and forms part of an informal group of buildings within the immediate area.

Additionally, the heritage value of the building and its contribution to the character of the local area could be further enhanced and revealed through its sensitive conversion back to residential use.

It can therefore be considered to be a non-designated heritage asset which has the potential to have its significance further revealed through the removal of unsympathetic alterations of the past.

Impact on Significance of Heritage Assets:

The following table identifies each major element of the proposals, the asset affected, the impact and identifies harm or enhancement:

Heritage Asset	Proposed Works	Overall Impact	Harm/Enhancement/Neutral
Seabury Hotel - NDHA	Demolition and replacement of the Seabury Hotel	High	Harm

St.Marychurch Conservation Area	Demolition of the Seabury Hotel	Moderate	Harm
St.Marychurch Conservation Area	Construction of apartment building	Moderate	Harm
205 St. Marychurch Road	Demolition of the Seabury Hotel	Low	Harm
205 St. Marychurch Road	Construction of apartment building	Moderate	Harm

As can be seen from the above table, the proposed development is considered to cause harm to a number of identified heritage assets.

The form and elements of architectural detailing of the original villa are still legible and therefore, as identified above, the building does make a positive contribution to the character and appearance of the St. Marychurch Conservation Area thereby warranting retention.

It is also currently considered that the demolition of the original villa lacks justification. The structural survey submitted in support of the application states that “although concealed for the most part, the original portion of the building appears in reasonable condition for its age and type”. It goes on to say that it is in fact the unsympathetic 20th century additions that are most at risk, stating “the standard of build quality in the more recent extensions is notably lower than the original villa, and is displaying signs of inherent defects within the construction.” Finally, the submitted report recognises that although the retention of the original footprint would potentially incur additional costs, it is considered feasible with an appropriately experienced contractor. It is appreciated that viability information has been submitted as part of the application which seeks to justify wholesale demolition and redevelopment. It is considered that this would require independent assessment to judge what weight can be given to this within the overall assessment of the proposals.

This being the case, based on the information currently available the loss of the villa lacks justification and will inevitably have a detrimental impact on the St.Marychurch Conservation Area as a designated heritage asset, which is characterised in this location by individual Victorian villas set within generous grounds.

In addition, even if the proposed demolition of the existing villa could be adequately justified, the replacement structure as proposed would be assessed to cause harm to the character and appearance of the conservation area as a result of its scale, massing, design and appearance.

The increased bulk of the building and the subsequent impact on the ratio of building to open space within the plot, its over scaled and needlessly busy design, the distinguishable difference in the detailing and more generally, its unavoidable inauthenticity would significantly undermine the contribution the site makes within the streetscape.

The proposed scheme would therefore be harmful to the character and appearance of the conservation area. It would also have a detrimental impact on the setting and significance of the Grade II listed building (205 St Marychurch Road) directly opposite the site.

Conclusions:

The wholesale demolition of the existing building would cause substantial harm (through complete loss of significance) to the Hotel Seabury as a non-designated heritage asset. This would also result in 'less than substantial harm' to the significance of the St. Marychurch Conservation Area and no. 205 St. Marychurch Road as a Grade II listed building.

As a result of the above, it is clear that the proposed development would cause clear harm to a number of identified heritage assets and that the proposals in their current form would neither preserve nor enhance the character or appearance of the identified conservation area. This being the case, the proposals are considered to be contrary to Policies SS10, HE1, TO2 and DE1 of the Torbay Local Plan and Policy TH8 of the Torquay Neighbourhood Plan which requires development to conserve and enhance the conservation area and to respect local character.

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 and the requirements of Section 66 (1) and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This would be a matter for the overall planning assessment of the proposals.

South West Water (Comments dated 14.09.2023):

South West Water is committed to eliminating sewer flooding particularly from foul and combined sewers to safeguard both the environment and householders. We request the proposed strategy for the disposal of surface water is in accordance with the National Planning Policy Framework.

The applicant must demonstrate how its proposed development will have separate foul and surface water drainage systems and not be detrimental to existing infrastructure, the public and environment.

You will need to demonstrate that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable): In all cases, where there is a risk of flooding the development will be made safe and flood risk not increased elsewhere.

1. Water re-use (smart water butts/rainwater harvesting etc.)

Provide written evidence as to why water re-use practises are not a viable option for your proposal.

2. Discharge into the ground (infiltration); or where not reasonably practicable,

Provide written evidence as to why Infiltration devices, including Soakaways, Swales, Infiltration Basins and Filter Drains do not meet the design standards as specified in either H3 Building Regulation standards for areas less than 100m². Soakaways serving larger areas must meet the design standard specified in BS EN 752-4 (para 3.36) or BRE Digest 365 Soakaway Design.

3. Discharge to a surface waterbody; or where not reasonably practicable,

Provide written evidence for refusal of discharge consent from owner of water body (Environment Agency, Local Authority, Riparian Owner etc)

4. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,

Provide written evidence for refusal of discharge to drainage system (Highway Authority, Environment Agency, Local Authority, Private ownership)

5. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

South West Water will carry out a hydraulic capacity review of the combined sewerage network before permission will be granted to discharge to the combined sewer.

Please note until we have seen the evidence as to why the applicant cannot discharge the surface water higher up the hierarchy their proposed discharge to the combined sewer is NOT permitted.

Torbay Council's Drainage Engineer (Comments dated 21.09.2023):

I would like to make the following comments:

1. As there is insufficient room on site for infiltration drainage the proposed drainage strategy for surface water run-off from the buildings is for a controlled discharge to the combined sewer system and the controlled discharge rate has been identified as 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area.
2. The developer has submitted a drawing showing the proposed drainage strategy together with hydraulic calculations for the surface water drainage design.
3. The drainage strategy drawing identifies manhole cover levels and invert levels, pipe diameters and pipe lengths however there is no drawing identifying the actual impermeable area discharging to each pipe length within the hydraulic model. This drawing is required in order that we can confirm that the data input to the hydraulic model matches the data included on the drawings.
4. The hydraulic modelling that has been submitted identifies that the surface water drainage system has been designed for the critical 1 in 100 year storm event plus 50% for climate change.

Based on the above comments, before this planning permission can be granted the applicant must supply details to address point 3 identified above.

Torbay Council's Drainage Engineer (Comments dated 17.04.2024):

Many thanks for forwarding the additional information. Based on the infiltration testing that has been carried out, the use of infiltration drainage is not feasible and therefore a controlled discharge to the combined sewer system will be acceptable, as identified in the previously submitted flood risk assessment.

As this planning application relates to 14 apartments and is classified as a major application, I expect to see the drainage design completed before planning was approved. We do not normally use planning conditions for surface water drainage on major applications.

As a result of the above, my previous consultation response for this application is still valid.

SWISCo's Senior Tree Officer (Comments dated 14.09.2023):

No objections to proposed development subject to planning conditions being applied in respect of tree protection and soft landscaping (tree planting).

Statutory Designations (Trees):

Tree Preservation Order –Not Applicable.

Conservation area – Applicable.

The application proposal includes the demolition of the existing hotel and removal of associated temporary and permanent structures. Rebuilding works are proposed on a reconfigured footprint within the curtilage of the property.

The existing property contains a number of variable quality trees and hedges. These have been identified in the BS5837 tree survey which supports this application.

The arboricultural report recommends the management and removal of trees within the property. I am satisfied that these works are reasonable and will not significantly impact the character or setting of the Conservation Area. Locally notable changes in appearance of the property are inevitable however.

The proposed pruning of T3 & T4 – I would advise the trees are reinstated into a cyclical pollarding regime without creating secondary pollard heads at higher points.

The Arboricultural Method Statement (Treecall Plan TC1 Ref: DS/77223/SC) clearly specifies the works and tree protection measures which are to be taken forward and their relative phasing within any construction programme. These works are also reasonable and adopt a precautionary approach to tree protection, enabling limited access to root protection areas in limited parts of the site in combination with ground protection measures.

The use of a pre-commencement planning condition is essential to the tree protection element of this project, if planning permission is granted. Enabling works (tree removal) may be

undertaken prior to any tree protection being installed (fencing, ground protection), but any demolition or construction works need to be undertaken only when the operational areas are defined and constrained.

The proposed tree planting is confined to the boundaries of the site. The species selection is generally acceptable but is reliant on only four species (Oak, Crab Apple, Wild Cherry and Field Maple). My preference would be to include one or two other species including Midland Hawthorn and Rowan for diversity and varying flowering and fruit attributes.

If planning permission is granted:

1. Secure by pre-commencement planning condition the implementation of the works specified in Treecall Plan TC1 Ref: DS/77223/SC and in conjunction with the Arboricultural Impact Assessment & Method Statement (Treecall REF DS/77223/SC).
2. Apply a planning condition to secure the proposed tree planting (with any species revisions) as per Tree Call Plan TC2 (Ref: DS/77223/SC).
3. Apply a condition requiring arboricultural site monitoring and reporting to the LPA including records of checks for tree protection / ground protection during the construction and landscape phases.

SWISCo's Senior Tree Officer (Comments dated 13.02.2024):

I've had a look at the updated ecology and landscape comments which are acceptable in terms of details and specifications. The landscape scheme has already been covered in previous comments and I'm generally happy with the proposal.

SWISCo's Waste (Strategy & Performance) Team Manager (Comments dated 19.09.2023):

The specification for the underground recycling and waste storage is not compatible with domestic recycling and waste collections in Torbay. A vehicle with a crane lift is required to empty these containers, which SWISCo do not use for recycling and waste collections.

I cannot find any detail of how the waste management solution identified would be applied to the circumstances of this development to maximise the amount of recycling and make positive behaviour change easy for the residents.

I would like to see a detailed waste management plan for the operational life of the development, explaining how the services will be tailored to the development and demonstrating compatibility with the domestic collection service, provided by SWISCo on behalf of Torbay Council. I would be keen to see this before a decision is made, rather than through a planning condition.

I would like to request waste management contributions for this development, in line with the table contained with the Council's Planning Contributions and Affordable Housing Supplementary Planning Document.

The Highway Authority (WSP: Comments dated 17.10.2023):

The site is currently accessed via Manor Road and this access is to be retained. It is unclear whether refuse vehicles are proposed to access the internal layout, or undertake refuse collections from Manor Road. This should be clarified by the applicant. Swept path analysis illustrating that access is possible for emergency vehicles (and refuse vehicles if applicable) to the site should be provided by the applicant.

Parking

Appendix F of the Torbay Local Plan details the parking provision to be provided, "1 car parking space per flat. Provision of secure and covered cycle storage for at least 1 cycle per flat.". The applicant has stated that 14 car and 14 cycle spaces are to be provided. The car spaces have been shown within the "Site Plan" drawing provided by the applicant. It is unclear whether any parking provision will be dedicated for use by disabled people and if so, these should be appropriately designed and illustrated on a site layout drawing. The Torbay Local Plan prescribes 10% of overall parking provision be designated for disabled use.

The Torbay Local Plan also states that "Electric vehicles and car clubs will be supported. 20% of available spaces should have electrical charging points". It is unclear whether electric vehicle charging facilities are to be provided and if so the location and quantum of these spaces. Further detail will be required confirming these details.

Confirmation as to whether residents will be assigned a specific car parking space respective to their dwelling is also requested from the applicant. On-street parking on Manor Road is generally at capacity and any visitor parking within the site would be welcomed by the Highway Authority.

The location of the secure, sheltered cycle store is shown on the "Proposed Ground Floor Plan" provided by the applicant, this is considered acceptable.

Refuse Collection

The application includes the proposal of underground waste containers. The specification for the underground recycling and waste storage is not compatible with domestic recycling and waste collections in Torbay. A vehicle with a crane lift is required to empty these containers, which SWISCo do not use for recycling and waste collections.

No detail has been provided of how the waste management solution identified would be applied to the circumstances of this development to maximise the amount of recycling and make positive behaviour change easy for the residents.

A detailed waste management plan for the operational life of the development is requested, explaining how the services will be tailored to the development and demonstrating compatibility with the domestic collection service provided by SWISCo on behalf of Torbay Council.

Trip Generation

The applicant has provided trip generation for this application, this is considered acceptable. It is not considered that the proposed development will result in a significant increase in generated traffic compared to the previous use.

Conclusion

Prior to recommendation the applicant will be required to provide the following:

- Vehicle tracking of emergency vehicles, and if applicable refuse vehicles, accessing the site and egressing in a forward gear;
- Further information regarding any assignment of car parking spaces and the inclusion of disabled and visitor parking, and electric vehicle charging; and
- A detailed waste management plan including information regarding how the waste management solution identified would be applied to the circumstances of this development.

Police Designing Out Crime Officer (Comments dated 25.08.2023):

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

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

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

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

Crime, fear of crime, ASB and conflict are less likely to occur if the following attributes of Crime Prevention through Environmental Design (CPtED) are also considered in the design and layout of the proposed scheme:-

Access and movement (Permeability) - Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.

It is recommended that the communal entrance doorsets are controlled by a visitor door entry system. The system should allow the resident to have a two way conversation with the visitor from their own property, it should also allow the person to see the visitor so they can visually identify them before granting access. It would be beneficial if the system allowed the occupant to see an image before the call so the resident can decide if they wish to answer or not. The system must also allow the occupant to remotely operate the electric locking device from their terminal and any other subsequent doors.

Please note I would not support the use of a trades person button or time released mechanism due to anti-social behaviour and unauthorised access associated with these.

It is also recommended that an access control system is installed that allows residents and authorised persons to gain access to the building via an electronic card or fob. The system should have the facilitate to restricted access at certain times of the day for relevant users. The system must have the ability to record and identify the location, user, time and date of every system event and store this for no less than 30 days. It should also be fully programmable to expeditiously delete lost or stolen proximity cards, key fobs.

Please note I also would not support the use of a push button code access control system due to issues associated with these where the entry code has not been updated when previous residents have moved out or shared with unauthorised persons.

Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict.

Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked.

Lighting should be installed to each elevation that contains a doorset where public visitors or occupants are expected to use. We would support the use of a low level dusk till dawn lighting that provides a constant lighting, opposed to a PIR lighting which has been known to increase the fear of crime with the constant activation.

Communal areas inside the property such as entrance hallways, landings and corridors should have 24-hour lighting (switched using a photoelectric cell).

Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.

Physical protection - Places that include necessary, well-designed security features as required by ADQ and SBD Homes 2023

All ground floor and easily accessible windows must be fitted with window restrictors which prevents reach in burglaries where the offender reaches in an open window and takes whatever's within reach.

It would be recommended that a secured lobby area is created on the communal entrances, this would prevent onward movement to other parts of the building without authorisation. A secured mail delivery system could also be installed within the secured lobby area.

As previously mentioned with the intention to retain the current boundary walls and hedges. Any hedge should be of sufficient height (1.8m) and depth to provide both a consistent and effective defensive boundary as soon as the residents move in. If additional planting will be required to achieve this then temporary fencing may be required until such planting has matured. Any hedge must be of a type which does not undergo radical seasonal change which would undermine the security of the boundary.

The cycle store should be lockable and it would be recommended its linked into the access control system. The internal side of the door should be fitted with a thumbturn lock or alternative emergency release system that would allow a person to exit in the event of being inadvertently locked inside. It would also be beneficial if the cycle store had lighting in which provides an even spread and illuminates the whole store making it feel safe to use at all times.

Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

Devon County Council's Principal Ecologist (Comments dated 07.02.2024):

Headline – Okay subject to conditions.

The bat presence/absence survey was undertaken in accordance with best practice guidance. No bats were recorded emerging from the building indicating the absence of bat roosts. No trees onsite deemed suitable in supporting bat roosts. No impacts on roosting bats are anticipated. The report states that no mitigation for bat roosts is required. A planning condition should be secured to ensure that no external lighting is to be installed or used in association with the development unless otherwise agreed with the Local Planning Authority.

The nesting birds survey was undertaken in accordance with common practice. The report acknowledges the potential for nesting birds to occur in the future. The report states that the works should be undertaken outside of the bird nesting season or following a check for the presence of nesting birds by an Ecologist. A planning condition should be secured to ensure that vegetation clearance works and enabling/demolition works are undertaken outside the bird nesting season, unless the site is inspected by an Ecologist prior to works commencing.

The report acknowledges the low potential for reptiles to be present. If present, these reptiles could be directly impacted by the demolition works. Mitigation for reptiles is mentioned in the Executive Summary of the Ecology report but this information is not detailed in the Conservation Action Statement, therefore it will need to be provided in a Construction and Environmental Management Plan document which is to be conditioned.

The Ecology report recommends the following biodiversity enhancement measures:

- Installation of artificial animal homes (no.) fitted to or integrated into the new building: bat boxes (4) and integrated bat bricks (4), integrated swift bricks (4), house martin (4 nests),

house sparrow terrace boxes (2), bee bricks (2); hedgehog homes (2); and bat boxes fitted to trees (2).

- Removal of 33 m of the non-native leylandii and replant a tall, native hedge with trees.
- Removal of invasive plant species - three-cornered leek and Rhododendron.
- Planting trees (13No. trees: 12No. native species, 1No. non-native species) at locations shown in arboricultural planting plan.
- Building a wildlife pond in northeast corner (surface area 35m²).
- Planting species-rich wildflower grassland (300m²) for pollinators. Location in northeast corner around the pond.
- Extensive green roofs total 116 m² , comprising drought tolerant grassland/sedum.
- Green walls total 371 m² (ground-planted 109 m² and façade-bound 262 m²) with planting native or non-native plants including climbing plants, such as honeysuckle (*Lonicera periclymenum*), hop (*Humulus lupulus*), passion flower (*Passiflora incarnata*), star jasmine (*Trachelospermum jasminoides*), Wisteria, Clematis, firethorn (*Pyrocantha*), climbing rose (*Rosa*), bryony (*Bryonia*) or ivy.
- Brush/log piles - the woody plants (trees/shrubs) removed will be cut and stacked to form a dead wood pile somewhere on the perimeter.

The above are deemed sufficient and the locations provided within the EclA will therefore be conditioned.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact (including the impact upon heritage assets)
3. Residential Amenity
4. Highways, Movement and Parking
5. Ecology, Biodiversity and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change
8. Designing Out Crime
9. Viability

1. Principle of Development

The proposal is for the demolition of the existing hotel building and associated ancillary buildings and the erection of 14no. residential apartments. The site is a disused brownfield site that formerly operated as a hotel.

Policy TO2 of the Local Plan states that, outside Core Tourism Investment Areas, the change of use of holiday accommodation will be permitted where:

1. The holiday character of the area and range of facilities and accommodation offered are not undermined; and,

2. One or more of the following apply: the site is of limited significance in terms of its holiday setting, views and relationship with tourism facilities; it can be demonstrated that there is no reasonable prospect of the site being used for tourism or related purposes, or; the redevelopment or change of use will bring regeneration or other benefits that outweigh the loss of holiday accommodation or facilities.

Policy TO2 of the Local Plan states that, where a change of use away from tourism is permitted, there will be a requirement to (i) restore buildings or land to their original historic form by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use, (ii) to reinstate amenity space lost through over-development as a holiday use, and that (iii) a high priority will be given to restoring the character and appearance of buildings within conservation areas.

In light of the above, the proposal would not restore the building or land to its original historic form, it would demolish the existing buildings on site in totality, resulting in a loss of the character and appearance of non-designated heritage assets. The heritage impacts of the proposed development are discussed in the next section of this report.

Policy TO2 of the Local Plan also states that, whether inside or outside Core Tourism Investment Areas, change of use from holiday accommodation to small apartments and houses in multiple occupation (HMOs) will not be permitted where they would conflict with the tourism character and offer of the Bay. Similarly, Policy SS11 of the Local Plan seeks to secure, amongst other things, well-balanced communities with a range of good quality residential accommodation including small to medium sized homes (2-4 bedrooms), and to resist excessive numbers of small self-contained apartments and HMOs, with a particular emphasis on Community Investment Areas. While it is apparent that the site does not have a strongly tourism-based character and is not within a Community Investment Area, the site is located relatively close to the Core Tourism Investment Area anchored around Babbacombe Downs to the northeast and the nearby Community Investment Area to the southwest.

Policy TT1 of the Neighbourhood Plan states that change of use from tourist accommodation to residential on sites outside the Core Tourism Investment Areas will be supported subject to, amongst other things, the site being of limited significance to the tourism setting, or the site lacking viability for tourism.

Policy TT2 of the Neighbourhood Plan states that change of use away from tourist accommodation within Conservation Areas will be support in principle (subject to other policies) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

The previous planning application (ref: P/2021/0520) on the application site was supported by a viability report that supported the change of use from holiday accommodation to residential. Objectors have raised concerns regarding the loss of tourist accommodation. The former hotel is located in a secondary, residential area with limited passing trade and no sea views. The property is not well placed for Torquay's main attractions, all having negative

implications for occupancy and room rate. The local market has experienced an increase in the number of hotels and hotel bedrooms, all of which will compete for the existing business at the Seabury Hotel. Previous evidence suggests that the 2-star independent sector which the Seabury Hotel sits in, is the most sensitive to market challenges and the business is currently loss making due to declining revenue and high costs associated with property maintenance, payroll and credit card charges and is therefore not viable.

The character in the vicinity of the site is more defined by residential properties than by holiday accommodation, and the site is somewhat separate from the important tourism facilities and accommodation at Babbacombe Downs (which, unlike the application site, is designated as a Core Tourism Investment Area). Although the hotel contains a swimming pool and has clearly received investment, the type of accommodation and facilities appear to be available elsewhere, closer to key tourism locations. Given the site's location, the hotel's performance in recent years, and the pipeline of new hotels opening in the wider area, it appears unlikely that the loss of the hotel would adversely affect the tourism character of the area, or the range of accommodation offered in Torbay.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. Letters of support state that the proposal would provide housing and jobs.

Paragraph 124 of 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.

Policy TS4 of the Neighbourhood Plan states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the Plan.

The Government published the most recent Housing Delivery Test in December 2023. Torbay's result is 55%. This means that Torbay must apply the presumption in favour of sustainable development as required by Paragraph 11 of the NPPF. Torbay's most recent housing land supply (April 2023) is that there is 2.17 years, which is a significant shortfall. The Housing Delivery Test requires that the presumption in favour of sustainable development be applied as per Paragraph 11 of the NPPF.

Paragraph 11 of the NPPF states:

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

For decision-taking this means:

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

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

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed [see Footnote 7]; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Footnote 7: The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

Whilst government guidance pulls in somewhat different directions, there is a clearly stated government objective of boosting the supply of housing. Policies SS3 and SS13 of the Local Plan also set out a presumption in favour of sustainable development separately to the NPPF. There is a pressing need for housing in Torbay, and the site is allocated for housing in the Development Plan. Accordingly, the presumption in favour of sustainable development is applied to applications involving the provision of housing.

Under the presumption, permission should only be refused where either:

- The application of policies in the Framework that protect designated heritage assets provides a clear reason for refusal (i.e. the “tilted balance” at Paragraph (d)i) or
- The impacts of approving a proposal would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole (i.e. the “tilted balance” at Paragraph 11(d)ii).

The recent revision of the NPPF gives additional protection to Torbay’s Neighbourhood Plans (Torquay, Paignton and Brixham Peninsula) until June 2024 and makes it clear that conflict with the Neighbourhood Plan is likely to significantly and demonstrably outweigh the benefits of development.

Development plan policies are taken into account when assessing whether the harm caused would “*significantly and demonstrably*” outweigh the benefit.

For reasons set out in this report there is less than substantial harm to the conservation area and the setting of a Grade II listed building, both designated heritage assets, contrary to the NPPF, notably Paragraph 208, whereby the public benefits of the proposal do not outweigh the identified harm. Paragraph 205 of the NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total

loss or less than substantial harm to its significance. As such, the proposal presents a clear reason for refusing the application.

As such the 'tilted balance' identified in Paragraph 11 of the NPPF is not enacted. Designated heritage assets are defined protected assets under Paragraph 11(d)i and given the harm to such, the policies in the Framework which seek to protect the *protected areas of particular importance* provide a clear reason for refusing the development. The presumption in favour of sustainable development therefore does not apply.

It is also considered that the impacts of approving the development would significantly and demonstrably outweigh the benefits, when assessed against the policies of the Framework taken as a whole (i.e. the "tilted balance" at Paragraph 11(d)ii). This is set out in the final section of the report dealing with the planning balance.

2. Design and Visual Impact (including heritage impacts)

It is important to note that achieving good design is a central thread within national guidance and Part 12 of the NPPF "Achieving well-designed and beautiful places" offers key guidance on this. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Paragraph 131 goes on to state that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 139 states that "*development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design*". Similar design expectations are engrained within the Development Plan through Policies SS11, DE1 and DE4 of the Local Plan and Policy TH8 of the Neighbourhood Plan.

The site is occupied by a Victorian villa and its curtilage, sited at the corner of Manor Road and Stanley Road, Torquay. While the original building dates from 1830s-1860s, the villa is a typical example of its type, with stucco elevations, sash windows, a Welsh slate roof, and generous grounds, bounded by characterful walls in local stone. Like many other villas within the St Marychurch Conservation Area, it has had a number of insensitive twentieth century extensions, which have masked its character and caused harm to the St Marychurch Conservation Area. However, it is still possible to recognise the core historic villa at the heart of the application site.

Policy SS10 of the Local Plan states that proposals will be assessed, amongst other things, in terms of the impact on listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas.

The application is supported by a Heritage Statement. The St Marychurch CAA does not identify the subject property as a key building, but draws attention to the prominent stone walls and mature trees along the plot boundaries. The site is in close proximity to a Grade II listed building, namely No.205 St Marychurch Road, which is opposite the site on the north-western

side of Manor Road. The St Marychurch Conservation Area Character Appraisal sets out that the Victorian character of the area is fundamental to its character.

It is also incumbent on the Authority, in exercising its duties, under the provisions of The Planning (Listed Buildings and Conservation Areas) Act 1990 (Section 66(1)), to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses, and (Section 72(1)), to pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area.

The proposal is to demolish all the existing buildings on the site, including the historic villa, and redevelop the site with a three storey residential building, in a Victorian style, with rendered walls, portrait shaped windows, hipped slate roofs, and an octagonal corner tower. Letters of support state that the proposal would have a positive impact on the local area, whereas letters of objection outline concerns that the proposed development would have a negative impact on the local area and the conservation area, would constitute overdevelopment, would set an unwanted precedent, and would not be in keeping with the local area.

Paragraph 195 of the NPPF states that heritage assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations. The NPPF outlines that the conservation of heritage assets should be given great weight in decision making (Paragraph 205 refers).

It is important to note that Historic England were not consulted on the former approval (ref: P/2021/0520), however Historic England in response to this planning application have reviewed the former consent to conclude that had they been consulted they would not have raised concerns, as the previous application sought to remove the insensitive twentieth century extensions and replace such with new extensions that were sympathetically scaled and respectfully retained the core of the villa. Historic England have confirmed that the former consent (P/2021/0520) would not generate harm.

Historic England have stated that the loss of the historic villa would cause harm to the St Marychurch conservation area, regardless of its insensitive twentieth century extensions, it makes a contribution to the conservation area, as a legible historic villa, which are fundamental to the character and interest of the conservation area. Historic England have outlined that the incremental erosion of the conservation area, including the loss of buildings that contribute positively to its character and appearance does not conserve a heritage asset, it results in harm. Historic England have commented "*the scale of the new building is uncharacteristic of the villas in this part of the conservation area, as is the ratio of building to garden area. Whilst the Victorian style proposed does in theory respond to the character of the conservation area, the massing and detailing proposed is unconvincing. The paucity of chimney stacks, the use of semi-circular window heads over square-headed windows, and the elephantine scale of the building compared to the original villa are just a few of the reasons why the proposed design fails to be a convincing evocation of a Victorian villa*". Historic

England conclude that they raise concerns about the proposed development on heritage grounds, and that the complete demolition of the former Seabury hotel would cause harm to the St Marychurch conservation area which is a designated heritage asset.

The NPPF confirms that harm must be clearly and convincingly justified (Paragraph 206). The loss of the villa lacks full and clear justification, whilst the applicant has undertaken viability work, further analysis has not been undertaken to explore alternative options. The wholesale demolition of the existing building would cause substantial harm (through complete loss of significance) to the former Seabury Hotel as a non-designated heritage asset. This would also result in 'less than substantial harm' to the significance of the St. Marychurch Conservation Area and no.205 St. Marychurch Road as a Grade II listed building.

The Council's Principal Historic Environment Officer has assessed the existing building through the tests Historic England provide on assessing whether a building has the potential to be a non-designated heritage asset. The Officer has concluded that although the villa has been significantly altered, it has some architectural and historic interest, which forms part of an informal group of buildings within the immediate area, it can be considered as a non-designated heritage asset and potentially further significance can be revealed through the removal of existing, unsympathetic extensions.

The Victorian Society have objected to the proposal, outlining that the existing villa makes some contribution to the character and understanding of the St Marychurch Conservation Area. The Victorian Society have stated that the proposal has a scale and design that is out of character with the surrounding historic buildings and would negatively impact the setting of the adjacent listed building Berkshire Court (Grade II). The Historic Buildings and Places body outlines that the design, scale and massing of the proposed development is out of scale with the characteristic form within the St Marychurch Conservation Area.

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, The Historic Buildings and Places body, and the Council's Principal Historic Environment Officer. Summary guidance from the consultees cited are generally aligned, concluding that the building is a positive element within the designated heritage asset of the St Marychurch 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 third parties, and having visited the site and immediate area, the existing building is deemed a positive element within the Conservation Area, this is notwithstanding deleterious extensions and incongruous expanse of hardstanding to the frontage.

The replacement building offers a larger footprint and additional height than the existing hotel. The resultant height and mass of the replacement building will be unduly dominant within the plot, which resultantly fails to respond positively to the historic character, and the sites constraints. To the frontage of the plot, the redevelopment presents little softening of the plot with a large area of hardstanding for the parking and manoeuvring of vehicles, which will dominate the frontage and will be apparent when travelling along Manor Road. The

existing hardstanding 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).

All matters considered, the summary position is that the existing villa is a positive element within the St Marychurch Conservation Area and the proposed development, by reason of the removal of the existing villa and the proposed replacement building presenting a scale and massing that would be unduly dominant within the plot, which would present a detailed but busy design that would be harmful to the character and appearance of the area.

In this circumstance, the development would lead to less than substantial harm to the St Marychurch Conservation Area, and less than substantial harm to the setting of no.205 St Marychurch Road, both of which are 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. Paragraph 214 of the NPPF requires local planning authorities to assess whether the benefits of the proposal, which would otherwise conflict with planning policies but would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies. The main public benefit of the scheme would result from the provision 14 apartments. 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 existing villa. 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, and to have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

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 DE1, SS10 and SS11 of the Local Plan, and Policy TH8 of the Neighbourhood Plan. The proposal would also conflict with the requirements of Sections 66(1) and 72(1) 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 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 the nationally described space standards.

In terms of location the application site is relatively close to the St Marychurch District Centre and the Plainmoor Local Centre and is therefore considered a positive sustainable location for the future use and well suited to a residential occupancy, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options.

Quality of living accommodation for future occupiers

Policy DE3 sets out the minimum floor space standards for new residential units, which align with the nationally described space standards. The proposed residential units comply with the minimum floor space requirements, see the table below.

<u>Flat Number</u>	<u>No. of Bedrooms</u>	<u>No. of Bed Spaces</u>	<u>Floorspace (sq m)</u>	<u>Minimum Requirement</u>
1	2	3	75.0	61
2	2	3	75.0	61
3	2	3	85.5	61
4	2	3	76.5	61
5	2	3	75.0	61
6	2	3	75.0	61
7	2	3	75.0	61
8	2	3	75.0	61
9	2	2	75.0	61
10	2	3	75.0	61
11	2	3	75.0	61
12	2	3	75.0	61

13	2	3	80.2	61
14	2	3	79.1	61

The proposal seeks to provide 14 x 2-bed apartments. The principal change to the housing mix from the previous consent is the increase of the number of units by two additional apartments, and less of a mix given that the previous consent sought four 1-bed apartments, six 2-bed apartments and two 3-bed apartments.

All apartments are considered to provide an acceptable scale of living accommodation with floor areas exceeding the prescribed standards. In addition to the size of the space, the quality of the space should be considered, in terms of how it is positively influenced by natural light levels and outlooks. In this regard, concerns are raised regarding the single aspect of Apartments 7 and 13. It is considered that Apartment 13 would receive limited natural daylight. Concerns are also raised in relation to the proposed openings for Apartments 2, 6 and 12 which are situated in the south west corner of the proposed replacement building and the retained trees, in terms of whether their outlook and access to natural daylight would be impacted. When compared to the previously approved scheme, the footprint of the current proposal is closer to the retained trees. The retained lime trees are a pruning tolerant species and are out of leaf in winter months, however the master bedrooms in Apartments 2, 6 and 12 are most likely to be affected by the retained trees.

Policy DE3 of the Local Plan also seeks secure the provision of usable outdoor amenity space where apartments should deliver 10 square metres per unit either individually or communally. The Neighbourhood Plan is in alignment with this guidance as advised within Policy THW4, either as balconies or communal space. The scheme provides a communal greenspace that accumulatively exceeds the policy-guided minimum of 140 square metres, which provides an acceptable level of outdoor space for future occupants of the apartments.

Adjacent neighbouring amenity

Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. Objectors have raised concerns regarding noise and privacy/overlooking.

The construction phase will naturally have some temporary impacts however such impacts are not unusual and can be limited through positively managing the process through a Construction Method Statement, this should be conditioned should planning permission be granted.

In terms of the finished development the residential use aligns with the residential uses nearby and the proposed use would not result in undue noise or general disturbance. The move from a commercial use to a residential use is likely to be positive as although the site lies empty a future commercial use could create noise and disturbance.

Objectors have raised concerns in terms of noise and privacy/overlooking. The proposed development is some 12-14 metres from the nearest adjacent neighbours (residential care homes (Park House, No.7 Manor Road and Cary Park Lodge)). The existing use of the site is a hotel, it is considered that the proposed residential use would not result in any detrimental impact on adjacent neighbours in terms of noise. Given the proposal's siting, design and orientation in relation to adjacent neighbours it is considered that the proposed development would have the potential to overlook the grounds of Park House, which would impinge on the neighbouring occupiers privacy. Whereas the previously approved scheme retained more of the existing hedgerow between the application site and Park House to avoid such infringement.

Having regard to the amenities provided within the proposal for future occupants and the future relationship of the development with adjacent plots and neighbouring occupants, the majority of the scheme broadly aligns with the aims and objectives of Policies SS11 and DE3 of the Local Plan, Policy THW4 of the Neighbourhood Plan and the guidance contained within the NPPF.

4. Highways, Movement and Parking

Paragraph 114 of the NPPF guides that when assessing developments it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be (or have been) taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; (c) the design of streets, parking areas, other transport elements and the content of associated standards reflect current national guidance, including the National Design Guide and the National Model Design Code; and (d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 115 of the NPPF confirms 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.

Development Plan objectives align with the aspirations of national guidance with principal guidance within Policies TA1, TA2 and TA3 of the 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 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 proposal proposes to maintain the existing vehicular access from Manor Road. The proposal includes 14 on-site parking spaces. Objectors have raised concerns regarding traffic and access. Local Plan policy guidance states that the proposed development should provide one off-street parking space per apartment, totalling 14 off-street parking spaces, plus an additional parking space for visitors. There is a deficit of 1 parking space, however it is considered that the existing use of the site with 23 hotel rooms available, the existing 12 off-

street parking spaces had to serve both guests and hotel staff. It is considered that the deficit of 1 parking space for the proposal, in relation to the existing situation would have a lesser impact on the local highway network. Furthermore, the site is in a sufficiently sustainable location as it is in close proximity to the St Marychurch District Centre and is in close proximity to local amenities and public transportation links to mitigate the insufficient onsite parking provision. The guidance notes also 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. Should planning permission be granted, a planning condition should be employed to secure an appropriate level of electric charging points. The proposal also includes 18 bicycle storage spaces, which would exceed the policy requirement of 1 space per apartment. The proposed bicycle storage provision is considered to be acceptable, should planning permission be granted a planning condition should be employed to secure the provision prior to the first occupation of the development.

The proposed layout does not assign specific parking spaces to each apartment. WSP on behalf of the Local Highway Authority has confirmed that on-street parking on Manor Road is generally at capacity and any visitor parking within the site would be welcomed. WSP have confirmed that the trip generation for this application is acceptable, and it is not considered that the proposed development will result in a significant increase in generated traffic compared to the previous use. WSP requested that vehicle tracking for emergency vehicles should be provided to demonstrate that it would be possible to access the site and egress in a forward gear. The applicant has not provided this requested information at the time of writing this report. Considering the Development Plan and advice contained within the NPPF, the proposal is considered to be unacceptable on highway grounds, therefore contrary to Policies TA1 and TA2 of the Local Plan, and the guidance contained within the NPPF.

In terms of key ancillary elements Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage of waste. The applicant has proposed underground recycling and waste storage which SWISCo has confirmed is not compatible with domestic recycling and waste collections in Torbay. A vehicle with a crane lift is required to empty these containers, which SWISCo do not use for recycling and waste collections. SWISCo's Waste (Strategy & Performance) Team Manager was consulted on the application and requested a detailed waste management plan for the operational life of the development, explaining how the services will be tailored to the development and demonstrating compatibility with the domestic collection service, provided by SWISCo on behalf of Torbay Council. The applicant has not provided a revised scheme for the storage and collection of waste.

5. Ecology, Biodiversity and Trees

The 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 Neighbourhood Plan, the latter in terms of impacts upon any existing protected species or habitats. Policy C4 of the Local Plan states that development proposals should seek to retain

and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

Objectors have raised concerns regarding The application is supported by a Preliminary Ecological Appraisal, a Bat Survey report and a Biodiversity Metric Assessment and Landscape Plan. The bat presence/absence survey was undertaken in accordance with best practice guidance. No bats were recorded emerging from the building indicating the absence of bat roosts. No trees onsite deemed suitable in supporting bat roosts. No impacts on roosting bats are anticipated. The report acknowledges the potential for nesting birds to occur in the future. The report acknowledges the low potential for reptiles to be present. If present, these reptiles could be directly impacted by the demolition works, therefore a Construction and Environmental Management Plan should be secured prior to demolition. The Ecology report recommends the following biodiversity enhancement measures:

- Installation of artificial animal homes fitted to or integrated into the new building: bat boxes (4no.) and integrated bat bricks (4no.), integrated swift bricks (4no.), house martin (4 nests), house sparrow terrace boxes (2no.), bee bricks (2no.); hedgehog homes (2no.); and bat boxes fitted to trees (2no.).
- Removal of 33 metres of the non-native leylandii and replant a tall, native hedge with trees.
- Removal of invasive plant species - three-cornered leek and Rhododendron.
- Planting trees (13no. trees: 12no. native species, 1no. non-native species) at locations shown in arboricultural planting plan.
- Building a wildlife pond in northeast corner (surface area 35 square metres).
- Planting species-rich wildflower grassland (300 square metres) for pollinators. Location in northeast corner around the pond.
- Extensive green roofs total 116 square metres, comprising drought tolerant grassland/sedum.
- Green walls total 371 square metres (ground-planted 109 square metres and façade-bound 262 square metres) with planting native or non-native plants including climbing plants, such as honeysuckle (*Lonicera periclymenum*), hop (*Humulus lupulus*), passion flower (*Passiflora incarnata*), star jasmine (*Trachelospermum jasminoides*), Wisteria, Clematis, firethorn (*Pyrocantha*), climbing rose (*Rosa*), bryony (*Bryonia*) or ivy.
- Brash/log piles - the woody plants (trees/shrubs) removed will be cut and stacked to form a dead wood pile somewhere on the perimeter.

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

The application is supported by a Tree Protection Plan, an Arboricultural Method Statement and an Arboricultural Impact Assessment. The application site contains a number of variable quality trees and hedges. The Council's Senior Tree and Landscape Officer raises no objections to proposed development subject to planning conditions being applied in respect

of compliance to the submitted Arboricultural Impact Assessment and Arboricultural Method Statement; to secure the proposed tree planting; and arboricultural site monitoring and reporting to the LPA including records of checks for tree protection / ground protection during the construction and landscape phases. The development is considered acceptable, in-line with the aspirations of Policy C4 of the Local 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 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. Policy 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 application site sits within the wider Torbay Critical Drainage Area as designated by the Environment Agency. Objectors have raised concerns regarding drainage. The submission has been reviewed by the Council's Drainage Engineer, who has confirmed that as there is insufficient room on site for infiltration drainage the proposed drainage strategy for surface water run-off from the buildings is for a controlled discharge to the combined sewer system and the controlled discharge rate has been identified as 1.5l/sec which complies with the requirements of the Torbay Critical Drainage Area. The developer has submitted a drawing showing the proposed drainage strategy together with hydraulic calculations for the surface water drainage design. The drainage strategy drawing identifies manhole cover levels and invert levels, pipe diameters and pipe lengths, lengths however there is no drawing identifying the actual impermeable area discharging to each pipe length within the hydraulic model. This drawing is required in order to confirm that the data input to the hydraulic model matches the data included on the drawings. Certainty is required on this prior to the grant of consent. The hydraulic modelling that has been submitted identifies that the surface water drainage system has been designed for the critical 1 in 100 year storm event plus 50% for climate change.

In the absence of a detailed drainage design that shows that surface water can be attenuated and discharged at an acceptable rate, the proposal is considered contrary to Policies ER1 and ER2 of the Local Plan.

7. Low Carbon Development and 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 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 application is supported by an Energy Statement. To reduce energy use for the proposed development, the following measures have been included:

- U-Values in line with Part L minimum requirements
- Heated access corridors
- Glazing (whole frame) u-value 1.2W/m²k with a g value of 0.50
- High efficiency lighting
- Natural ventilation (with extract fans only)
- Design Air Permeability (DAP) of 5.00
- Limiting thermal bridging – *for the purpose of the assessment, SAP Appendix R: Table R2 PSI values have been used*

The Statement outlines that electricity has been chosen as the most sustainable fuel and will future-proof the residential units. Heat pumps for both space and water heating have been selected to reducing carbon dioxide emissions. To further enhance the development's energy systems, enhanced controls and heat emission has been recommended.

The proposed heating system is an air source heat pump (ASHP). This will provide heating and hot water and replace the need for mains gas. Taking various factors into account such as location, ease of installation and the client's preferred solution, individual ASHP's have all been selected as the most desirable and feasible choice of renewable/low carbon technology for the development. As such, each apartment will have their own individual ASHP unit to supply electricity to from a renewable source. After consultation with the client and a review of the architect's drawings, it has been decided that the ASHP's will be situated within a plant room on the second floor.

The Statement concludes that the proposed development will reduce CO₂ emissions by approximately 58.99% beyond the requirements of Part L of the Building Regulations and therefore meets the planning requirement set by the Council '*to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited*'.

The development is in accordance with Policies SS14 and ES1 of the Local Plan and advice contained within the NPPF.

8. Designing Out Crime

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

new development should provide a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

The Police Designing Out Crime Officer was consulted and commented upon the application. The proposal does not include a scheme of designing-out crime measures.

9. Viability

The applicant has submitted a viability assessment which concludes that it is not viable to deliver the previously approved scheme (ref: P/2021/0520). At the expense of the applicant, this information has been independently assessed. The conclusion of the independent assessment was that the previously approved scheme is not viable, and the current proposal is capable of delivering the scheme with a reasonable profit to the developer.

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. The application has been supported by a Sustainability Checklist. Each of which shall be discussed in turn:

The Economic Role

Whilst the loss of the hotel use is regrettable, the 2-star independent sector which the Seabury Hotel sits in, is the most sensitive to market challenges.

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

Once the residential units are occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwelling to be provided must carry significant weight in this balance.

The provision of housing would provide an appropriate use and offer units within a sustainable location. On balance, the social impacts of the development weigh in favour of the development.

The Environmental Role

With respect to the environmental role of sustainable development, for reasons set out in this report there is material harm to identified heritage assets (the St Marychurch Conservation Area and the setting of no.205 St Marychurch Road listed building) which presents a clear reason for refusing the application.

The proposal provides low carbon and energy measures. The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition should planning permission be granted.

Concerns have also been raised with regards to access to natural light to habitable rooms when considering a number of the proposed apartments, as well as some being single aspect.

It is concluded that the environmental impacts of the development, in terms of the adverse impact on heritage assets and concerns over access to natural light and amount of aspect for some of the apartments, weigh against the development.

Sustainability Conclusion

Having regard to the above assessment the proposed development is not considered to represent sustainable development.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

Affordable Housing

The proposal falls below the threshold for affordable housing contributions as outlined in Policy H2 of the Local Plan which seeks affordable housing contributions on brownfield sites of fifteen dwellings or more.

CIL

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

The estimated CIL liability is £38,621.26. This figure is indexed linked, and the final figure will be calculated on the day of the decision.

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

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

S106

Site Acceptability Matters: None.

Affordable Housing: Not applicable 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. The development does not meet the thresholds for screening and is not in a sensitive area.

HRA

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

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC and a formal HRA screening is not necessary in this instance as the proposed development is unlikely to have a significant effect on the South Hams SAC.

Planning Balance

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

When taking account of the Government's objective of significantly boosting the supply of homes and the role of the construction industry in supporting economic growth, along with the acknowledged important contribution that small sites can make to meeting the housing requirement of an area and the Council's housing land supply situation, as well as the site being a brownfield site, the cumulative public benefits of the proposed scheme attracts substantial weight.

As the proposal is not in accordance with the Development Plan, 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.

There are some 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 NPPF gives great weight to a designated heritage asset's conservation, irrespective of the amount of harm, of which the proposal is considered to result in less than substantial harm to the St Marychurch Conservation Area and less than substantial harm to the settling of no.205 St Marychurch Road. The NPPF confirms that the significance of a non-designated heritage asset should be taken into account when determining planning applications, as such a balanced judgement is required, the proposed total demolition is considered to result in substantial harm to the non-designated heritage asset. Weight must also be afforded to the statutory duties within the Planning (Listed Buildings and Conservation Areas) Act 1990, for the local planning authority, when making a decision on any decision on a planning application for development that affects a listed building or its setting, to pay special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest which it possesses. The Act also places statutory duties on the local planning authority, to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

The design would result in permanent harm to the character and appearance of Manor Road and Stanley Road. It would therefore conflict with the NPPF's approach to design which advocates the creation of high quality, beautiful and sustainable buildings, which are visually attractive and will function well. This attracts substantial weight in the balance.

Furthermore, this report has set out a number of adverse material considerations that lie behind the conflict with the Development Plan, such are detailed within the reasons for refusal.

Housing need is itself an important factor but must be balanced with other considerations to inform whether development is sustainable development in the round. It is concluded that other material considerations do not justify the grant of planning permission.

Finally, the presumption in favour of sustainable development has been considered in this recommendation. The identified harm to the St Marychurch Conservation Area and the setting of the Grade II designated heritage asset, provides a clear reason for refusing the proposed development. The adverse impacts of granting planning permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

Conclusions and Reasons for Decision

The Council cannot currently demonstrate a 5-year housing land supply, as sought by Government, and the proposal will help with the delivery of housing. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay. For reasons set out in this report there is material harm to identified heritage assets which presents a clear reason for refusing the application. As such, in applying the 'tilted balance' identified in Paragraph 11 of the NPPF, it is concluded that the application should be refused.

The provision of housing is a significant benefit within the planning balance. In the absence of 5-year housing land supply the NPPF advises that the policies most important for determining the application should be considered to be out of date.

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

As such it is recommended that planning permission be refused.

Officer Recommendation

That planning permission is refused, subject to the reasons detailed below. The final drafting of reasons for refusal and addressing any further material considerations that may come to light to be delegated to the Divisional Director for Planning, Housing and Climate Emergency.

Reason(s) for Refusal

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 St Marychurch Conservation Area,

which would result in harm to this designated heritage asset, would harm the setting of no.205 St Marychurch Road, 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 National Planning Policy Framework and Policies SS10, SS11 and DE1 of the Adopted Torbay Local Plan 2012-2030, and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030, and the requirements of Sections 66(1) and 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. There is insufficient information available to properly determine the proposal's highways and vehicular movement impacts in relation to Manor Road (C788) which is a classified public highway. The proposal could therefore have an adverse impact on highway safety. As such, the proposal is contrary to Policies TA1 and TA2 of the Adopted Torbay Local Plan 2012-2030 and the National Planning Policy Framework, in particular Paragraph 115.
3. The proposal, due to the lack of a detailed design for the management of surface water, fails to provide certainty that the risk of flooding would not be increased, within a Critical Drainage Area designated by the Environment Agency, contrary to Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030.

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 with the applicant in a positive and proactive way by clearly setting out concerns relating to the proposal and providing an opportunity for the applicant to amend the application. However, the local planning authority was unable to resolve these issues with the applicant and the applicant elected not to withdraw the application, thereby resulting in this refusal of planning permission.

Relevant Policies

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable development
SS10 - Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 – Low carbon development and adaption to climate change
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1 - Applications for new homes

DE1 - Design
DE3 - Development amenity
DE4 – Building heights
ER1 - Flood risk
ES1 – Energy
W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TT1 – Change of use constraints within and outside a CTIA
TT2 – Change of use in conservation areas and listed buildings
TH8 - Established architecture
TH9 - Parking facilities
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
THW4 - Outside space provision
THW5 - Access to sustainable transport