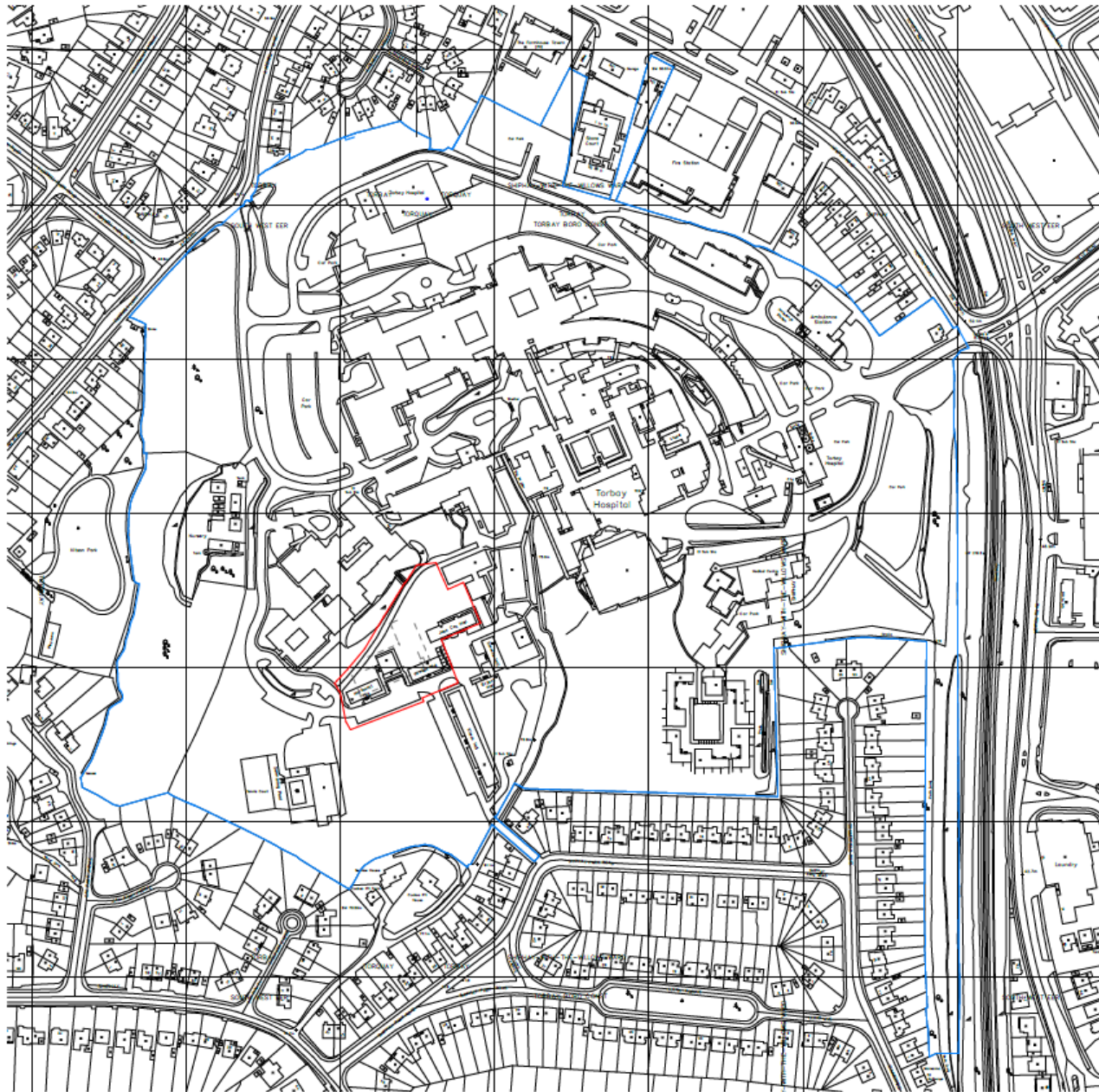


Application Site Address	Torbay Hospital, Newton Road, Torquay, TQ2 7AA
Proposal	A new mixed use clinical hub building four storeys high and a further partial floor of lower ground. The site area includes the demolition of existing buildings and a new electrical substation.
Application Number	P/2024/0001
Applicant	Torbay And South Devon NHS Foundation Trust
Agent	KTA Architects Ltd
Date Application Valid	21.12.2023
Decision Due date	21.03.2024
Extension of Time Date	TBC
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined at the end of the report, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency, the completion of a section 106 Legal agreement to secure a tree mitigation payment of £71,531 and;</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Major development
Planning Case Officer	Alexis Moran

## Location Plan



## Site Details

The application site forms part of the larger Torbay Hospital site on the western outskirts of Torbay near to the residential areas of Shiphay and Edginswell.

The application site is an area of land to the south of the hospital campus currently occupied by a number of existing buildings which are generally no longer fit for purpose and would require extensive refurbishment to upgrade to modern standards. The majority of the existing buildings in

the area are three storeys high (approximately 9.5m). These were originally designed as residential units for staff and are approximately 40 years old.

The site is relatively high within both Torbay and the hospital site, as such the applicant has provided a visual impact assessment showing the proposal from different viewpoints. Due to the topography of the application site, there is a 3-4m difference in levels from the south of the site to the access road to the north. Additionally, there is a drop across the site of approximately 1.5m.

There is a large staff carpark to the south of the site, beyond this there is a line of mature trees which border the wider hospital site to the residential housing to the south. The site is bounded by two roads, one to the south which provides access to the existing staff car park and an access road to the north which terminates in a dead end. Pedestrian access is via pavements from the main hospital that continue around the south of the site.

In terms of designations, the site is within a Critical Drainage Area.

### **Description of Development**

The proposal seeks permission for a new 4-5 storey mixed use clinical hub building and a new electrical substation. The application seeks a betterment of existing facilities and does not cite an increase in the employment numbers. The proposed development is to be located on the southwestern extent of the main Torbay Hospital site on a parcel of land which is currently occupied by several existing buildings. The proposal includes the demolition of some of the existing buildings on this part of the site which are generally 9.5m in height and made up of a boiler room, key worker accommodation, temporary staff accommodation and administrative portacabins. The portacabins will be relocated and would be subject to a separate planning application. Similarly the key worker accommodation will be demolished once additional accommodation is provided.

Due to the aforementioned difference in levels, the maximum height of the proposed building is 22.5m from ground level on the rear (north) elevation and 18.5m from ground level on the front (south) elevation.

The proposed building is L shaped, with a length of approximately 51m and a width at its widest point of 38m and approximately 14m at its narrowest point.

The design layout is set out to a standard hospital 7.2m grid which assists in creating repeatable rooms and standard room sizes. This is the first step towards creating an efficient design and allowing modern methods of construction at an early stage.

The total gross internal area of the proposed building is 4,618m<sup>2</sup> which is arranged as follows:

- The lower ground floor provides 200m<sup>2</sup> and is made up of a loading bay for deliveries and plant space.
- The ground floor would house the relocated Breast Care department and provides 1,194m<sup>2</sup> of floorspace. The current Breast Care building will be demolished.
- The first floor is to be used to accommodate existing admin staff from various departments, this floor is 1,194m<sup>2</sup> in area.
- The existing histopathology department is currently located within a portacabin, this department will be moved to the second floor (1,194m<sup>2</sup>).
- An internal plant room of 829m<sup>2</sup> is proposed on the third floor. This level is set back by approximately 6.8m from the rest of the principal elevation.

A set of chimneys protrude beyond the plant level roof by some 3m, the chimneys are required to extract for the Histopathology Labs, essentially allowing for the safe removal of contaminated air and to provide a safe working environment inside the building.

Externally, the bulk of the building is broken up by the use of different materials and colours with a brick plinth at ground level and through detailing and punctuation, such as inset panels, inset aluminium windows and fixtures which provide shadowing. The different detailing and colours of materials, provides wayfinding benefits making the building distinguishable from others on site.

The existing Breast Care garden is to be re-located to an area to the east of the building, this will be adjacent to the patient waiting area, allowing views to the garden.

The development proposed at this site would see the net loss of 20 car parking spaces at the Hospital. This loss is mitigated by the provision of 20 new parking spaces and therefore there is no net loss in parking.

Vehicle access is proposed for servicing the building to the north. The road to the south of the building is proposed to be widened to allow for future flexibility to this part of the hospital campus.

The proposed building is designed to be fit for purpose, safe, appropriate and accessible by all potential users. The proposed building will incorporate features to provide access for people with a range of disabilities and uses the Disability Discrimination Act as a minimum standard in conjunction with HTM requirements. Access and egress will meet the DDA requirements.

A level access and walkway surrounds the building to the south and east. This negates the need for ramps to the building and a pair of double doors allows for future links and access to the east.

The patient entrance is located to the south and east near the car park and provision for pedestrians will be included with the implementation of two pedestrian crossing points from the building to the car park.

There is a separate staff entrance allowing for flexible use of the floors above ground and allowing departments to remain independent in terms of security.

The proposed electrical substation is located to the east of the red line site boundary and comprises of a single storey flat roof building of brick construction.

### **Relevant Planning Policy Context**

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

#### Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

- The Torquay Neighbourhood Plan ("The Neighbourhood Plan")

#### Material Considerations

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

#### **Relevant Planning History**

**Pre-Application:** DE/2023/0138 – the response provided a generally positive response to the proposal and included some suggested alterations to the materials and ways to further break up the elevations.

**Applications:** The hospital has been subject to numerous applications to extend and improve its facilities over the years.

#### **Summary of Representations**

None.

#### **Summary of Consultation Responses**

Torquay Neighbourhood Forum: No comment.

Strategic Planning: There is a strong presumption in favour of approval for proposals that seek to meet the area's healthcare needs, implicit in paragraphs 11 (b) and 100 of the NPPF. Policies SS7 and SC1 (3) of the Torbay Local Plan would also support the proposal. Table 9 from Policy SDT3 states that the site should be used to maintain the healthcare needs of South Devon and supports proposals that make more effective use of the site.

Highway Authority: No objection subject to the inclusion of planning conditions requiring the submission of a Delivery and Servicing Management Plan, a Construction Management Plan and a Cycle Parking Strategy which provides details of the proposed cycle store.

Torbay Council Climate Strategy & Project Officer: No objection subject to a condition that requires the development to accord with the approved energy and sustainability statements.

Torbay Council Drainage Engineer: The developer has supplied a drawing showing the proposed surface water drainage layout for the development and identified the impermeable areas discharging to each pipe length within the hydraulic model.

Although the combined discharge rate from the two surface water systems is greater than the requirements identified in the Torbay Critical Drainage Area, due to the site constraints and the significant betterment to the existing scenario being provided by the new drainage layout, the proposed discharge rate will be acceptable on this occasion.

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

Torbay Council Community Safety Team: No objection.

Torbay Council Senior Tree Officer: A valuation of the TPO trees being proposed for removal has been carried out. The Capital Asset Valuation for Amenity Trees (CAVAT) was applied using the tree attribute data provided in the BS5837 tree survey provided as part of the application.

The CAVAT assessment outcomes relate to G3, G7, T1, T & T4. The monetary value derived from the CAVAT is £71,531.

This valuation should be secured through a Section 106 agreement for tree planting and tree establishment in Torbay. Planting opportunities will be identified and delivered to secure a range of benefits including, health, well being, climate adaptation, rainwater interception and amenity contributions to public spaces.

Devon County Ecologist: The proposal leads to the loss of trees which are not of particularly high ecological value. Four hundred trees have been planted on site which, subject to a condition requiring ecological gain, the proposal is acceptable from an ecology point of view.

Devon and Cornwall Police: Advice has been provided to the applicant from a designing out crime, fear of crime and anti-social behaviour perspective.

South West Water: No objection provided no surface water is discharged back to SWW combined system.

## **Key Issues/Material Considerations**

### **Planning Officer Assessment**

1. Principle
2. Design and Visual Impact
3. Residential Amenity
4. Transport and Highway Safety
5. Ecology and Biodiversity
6. Drainage and Flood Risk
7. Low Carbon Development and Climate Change

#### **1. Principle**

Development Plan Policy SC1 of The Local Plan outlines the importance for development to contribute to improving the health and well-being of the community. The improvement of hospital services is considered to align with this policy aspiration. Policy SS7 of the Torbay Local Plan supports infrastructure improvements such as those provided by the application. The Neighbourhood Plan is silent on the development of health facilities within its health and well-being policies. With regard to other material considerations, the NPPF guides that the purpose of the planning system is to contribute to the achievement of sustainable development and relative to this the planning system has three overarching objectives, one being the social objective. The provision and enhancement of health facilities is considered aligned with the social objective of sustainable development, as supported within the NPPF.

For the reasons above the enhancement of the health facilities provided within this established



hospital site is considered to be supported in principle through planning policy.

The principle of the development in the context of it being brownfield development should also be considered. 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. In the absence of significant adverse impacts, the policy indicates that the development should be supported.

## **2. Design and Visual Impact**

With regard to the Development Plan Policy DE1 of The Local Plan, this outlines that development should be well-designed, respecting and enhancing Torbay's special qualities. The Neighbourhood Plan, through Policy TH8, cites 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. With regard to other material considerations the NPPF guides that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve and that good design is a key aspect of sustainable development (Para 131). It also guides that permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions (Para 139).

The scale and design of the development is considered acceptable given the context. The location of the development is towards the core of the site where there are a number of large buildings. The scale of the building will sit comfortably aside the existing large buildings that form part of the immediate and broader visual context. Although the development is significant it will be lower than elements of the wider hospital building group, including the tower and is set back behind existing buildings which would reduce its overall visual impact from long distance views. This context (of larger buildings) provides an arrangement where the building will sit comfortably within the locality and where its scale does not raise concern and, its location, away from the sites boundaries, makes it an ideal location for a large-scale building.

The proposal breaks up the facade into a plinth at ground floor level with vertical panels of differing colours and indentations above. The use of inset vertical panels creates a rhythm to the main facade and contrasting colours add depth and animation. The proposed palette of materials and

material colours take note of the existing buildings on this part of the site, as well as the wider site, and the most prominent materials used in Torbay which are historically, limestone and red sandstone. The colour and material palette are such that the building can be used for wayfinding.

The chosen materials have a low embodied carbon impact whilst also being suitable for the location, allowing pre-manufactured panels which are non-combustible.

The design, development form and detail are considered to harmonise well with the functional feel of the wider building group. These display an evolving character of development spread through many decades and seeks to provide some variation to provide wayfinding benefits. The proposal has developed between the pre-application and application stage and developed further during the application phase.

The applicant has submitted a visual impact assessment which shows the site from different locations on and off site. The overall conclusions of the Officers assessment of this are that the building would appear of an appropriate size and would not appear out of context or have a detrimental impact on long distance views into the site.

It is considered that the scheme is well conceived and accords with the policy aspirations cited above. As such the proposal is considered to be in accordance with design policies contained within the Development Plan and guidance contained within the NPPF.

The conclusion above has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority pay special regard to the desirability of preserving or enhancing the setting of listed buildings. There is a Grade II Listed Chapel 167 metres to the north-east of the site with a number of intermediate buildings in between. The Listed Building is set between the original hospital building and a number of more modern buildings of a more industrial design. Due to the visual disconnect, the development would have limited impact upon the setting of the Grade II Listed Chapel.

### **3. Residential Amenity**

Policy DE3 of the Torbay Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the

amenity of neighbouring and surrounding occupiers. The Neighbourhood Plan is largely silent on the matter of amenity. With regard to other material considerations, 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 (Para 135).

The proposal is set centrally within the hospital site some distance from its borders and adjacent residential occupiers. The submitted visual impact assessment shows that the proposal will not be overbearing on neighbouring residential properties. Considering the location and building arrangement the proposal will not affect the amenity of occupiers of nearby properties/occupiers.

There have been no objections received from local residents in relation to this proposal.

In order to ensure the proposal does not unduly impact residents during the construction phase, a Construction Traffic Management Plan condition is considered necessary which will include details of working hours and locations of material storage and temporary containers etc.

For the above reasons the proposed development would not unduly impact the level of amenity afforded neighbouring occupiers, which presents development that accords with Policy DE3 of the Torbay Local Plan and guidance contained within the NPPF.

#### **4. Transport and Highway Safety**

Policy TA1 of the Torbay Local Plan in-part seeks to promote development in locations that are easily accessible and safely reached by foot, cycle, public transport, other sustainable transport or car. Policy TA2 of the Local Plan seeks those major developments should provide a good standard of access for walking, cycling, public and private transport. Policy TA3 of the Local Plan requires all new development to make appropriate provisions for car, commercial vehicle and cycle parking. Policy THW5 of the Torquay Neighbourhood Plan states that to encourage use of sustainable forms of transport, new development proposals will be supported where they are located on or near to public transport routes wherever possible and appropriate. With development in sustainable locations and promoting accessibility and sustainable travel options but caveats 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 (Para 115).

The Design and Access Statement submitted as part of the application does not cite an increase in the employment numbers via the development, but rather that it will improve facilities currently provided by the hospital and therefore the proposals are unlikely generate new trips and is not expected to present any demonstrable harmful impact in terms of highways and movement patterns.

The hospital has purchased an additional piece of land immediately adjacent to the northern boundary of the wider hospital site and has provided 20 parking spaces in this location, this mitigates the loss of 20 car parking spaces within this application, and therefore leads to no net loss in car parking at the hospital.

The Councils Highways Consultant have confirmed that they welcome the use of Variable Messaging Signage (VMS) to advise staff, patients and visitors on the availability of spaces in the various hospital car parks which aids in the efficiency of visitor and staff parking and in preventing cars queuing/entering and exiting car parks if there are no available spaces in those car parks.

The applicant has confirmed that the proposal includes 80 cycle parking spaces in a cycle shelter. Part of the shelter would be staff cycle parking space and would be secure and separate from the visitor's cycle parking. This proposal is welcomed as it is likely to provide reassurance to staff regarding the security of their bicycle and therefore encourage the use of this mode of travel to and from the site. The Highway Authority consider this detail 'high-level' and therefore a planning condition has been recommended which requires additional details for the cycle store, split between visitor and staff, including security measures.

It is considered expedient to seek information on the construction requirements, compound needs, location, etc, via a Construction Method Statement in order to ensure any impacts upon general movement and parking facilities, are limited.

The proposal is considered acceptable on highway and movements grounds, subject to conditions, and is deemed to be in accordance with the Policies TA1, TA2 and TA3 of the Local Plan, Policy THW5 of the Neighbourhood Plan, and guidance contained within the NPPF.

## **5. Ecology & Biodiversity**

With regard to Policy NC1 of the Torbay Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. In regard to other material considerations the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 180).

The proposal would result in the loss of 15 trees and a hedgerow, this includes one category B tree (T2), one category C tree (T1), two category C groups (G3, G7), and one category C hedgerow (H5) are the subject of a Tree Preservation Order (TPO), these trees are considered to be of minimal ecological value. A total of 400 new native trees and shrubs have been planted in an area to the south-east of the site and the application has confirmed they are willing to enter into a section 106 agreement to provide a mitigation payment for the tree loss, which is discussed in more detail later in this section. The Councils ecology consultant has confirmed that the tree and shrub planting and the s106 payment would be sufficient mitigation. It is also considered that an additional condition requiring a scheme of additional ecological mitigation, through the addition of one bird box and one bat box would aid in providing a ecology net gain and a suitably worded condition will be added to any approval.

In order to ensure that there are no impacts on nesting birds it is considered reasonable to attach a planning condition to ensure that all works should be undertaken outside of the bird nesting season unless previously checked for the absence of nests by a suitably qualified ecologist (March-September inclusive).

With regard to trees and landscaping on the site, as previously noted, 15 trees are to be removed in order to enable the proposed development. It is necessary to remove the trees at the north of the site which are protected by an area Tree Preservation Order, as this area will be used to facilitate the built form of the new building, those to the south of the site are to be removed to allow

for alterations to the road width, to provide attenuation and to allow for the reestablishment of patient parking. The Council's Senior Tree Officer has advised that the monetary value of the trees to be removed is £71,531 and as such the applicant will need to pay this sum to the Council to mitigate their loss. The applicant has agreed to enter into a Section 106 agreement with the Council in order to provide the required sum which will be used for tree planting and tree establishment in Torbay in order to secure a range of benefits including, health, wellbeing, climate adaptation, rainwater interception and amenity contributions to public spaces. Additionally, the trust has planted a total of 400 new trees to the south-east of the proposed site in part to compensate for the trees being removed as part of this application. It is deemed that, on balance, the loss of the trees is acceptable and is mitigated by the s.106 payment and additional tree planting and enhancement measures, and when considering the additional public benefit that the new facilities will provide to residents of Torbay.

Subject to the completion of a section 106 agreement and a condition to secure enhancement features, the development is considered acceptable on arboricultural, ecological and biodiversity grounds and is deemed, on balance, to be in-line with the aspirations of Policies NC1 and C4 of the Torbay Local Plan, the Torquay Neighbourhood Plan, and advice contained within the NPPF.

## **6. Flood Risk and Drainage**

Policies ER1 and ER2 of the Torbay Local Plan seeks that development maintains or enhances the prevailing water flow regime on-site and further guides on a hierarchy for the management of surface water with sustainable drainage systems being prioritised. The Torquay Neighbourhood Plan is silent on the matter. In regard to other material considerations the NPPF provides guidance aligned with the Torbay Local Plan, including that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 169).

The site sits in an area with a low risk (Flood Zone 1) of flooding, however it does sit within a Critical Drainage Area as designated by the Environment Agency. The Council's Drainage Engineer has advised that the proposed drainage scheme provides significant betterment to the existing drainage on this part of the site and that the developer has demonstrated that the surface water drainage for this development has been designed in order so that there is no risk of flooding to property on the

site or any increased risk of flooding to property or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.

The proposal infiltration drainage is considered to be in accordance with Policies ER1 and ER2 of the Torbay Local Plan and advice contained within the NPPF.

## **7. Low Carbon Development and Climate Change**

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The applicant has submitted a sustainability checklist for this application. The Councils Climate Strategy & Project Officer has advised that the information submitted highlights that the notional building has taken a fabric first approach that entails an exceedance of building regulations L and a high level of air tightness that will reduce the energy requirements of the building which is in line with policy SS14 and ES1 of the Torbay Local Plan. This highlights that the design of the building has followed the sequential order laid out within policy SS14 to maximise the opportunities to reduce energy demands, with further solutions such as LED lighting and air to water heat pumps to further reduce the energy demands of the building.

The development includes the use of solar panels and air source heat pumps to deliver low carbon energy, which will further reduce the operational carbon emissions of the building in line with the energy hierarchy of Policy SS14 which seeks to reduce the operational energy required and to incorporate renewable energy technologies to achieve a low carbon design.

The use of passive solar shading highlights that climate impacts have been considered within the design of the building whilst the design of the windows have been sited to support ventilation to ease overheating within the building.

The flexible internal design that they are proposing, which will enable the building to meet future needs and be adaptable to a change of use if required, is welcomed by the Councils Climate Strategy and Project Officer.

The Councils Climate Strategy & Project Officer has recommended the addition of a condition requiring the applicant to provide energy and sustainability statements prior to any development other than demolition which will provide specific details that will be incorporated into the site.

The development is considered suitable for approval subject to satisfactory condition to secure the measures outlined above. The development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

### **Sustainability**

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

#### **The Economic Role**

There are no adverse economic impacts that would arise from this development. During the construction phase there will be economic benefits through the creation of additional jobs.

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

#### **The Social Role**

The proposal would result in improvements to the current quality of healthcare provided to occupiers of Torbay.

On balance, the social impacts of the development weigh in favour of the development.

#### **The Environmental role**

With respect to the environmental role, the proposal would provide passive and renewable energy measures to aid in reducing the carbon emissions of the building during construction and operation. A biodiversity net gain would be provided through the addition of bird and bat boxes required by condition and the loss of trees will be mitigated through a financial payment via a section 106 agreement.



It is concluded that the environmental impacts of the development would be neutral to positive within the planning balance.

### **Sustainability Conclusion**

Having regard to the above assessment the proposed development is considered to represent sustainable development.

### **EIA/HRA**

#### **EIA:**

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

#### **HRA:**

Due to the scale, nature and location this development will not have significant effects on the South Hams SAC or Lyme Bay and Torbay SAC and does not require a formal HRA.

#### **BNG:**

This application was submitted prior to the introduction of Biodiversity Net Gain and therefore is BNG exempt.

### **Planning Balance**

The development would provide an improved, streamlined service which will aid in reducing waiting times for patients to be seen. The addition of improved health facilities will have a positive impact on residents of Torbay. The proposed works will provide a number of additional jobs through the construction of the building itself. Furthermore, the provision of the new building will ensure that existing staff can remain in their current positions and contribute to local household income and household expenditure. These matters weigh in favour of the development.

**Housing Supply:** N/A.

### **Statement on Human Rights and Equalities Issues**

Human Rights Act: The development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act

gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests / the Development Plan and Central Government Guidance

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

### **Proactive Working**

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 considered the need to work positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved.

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

For the reasons stated within this report the development is considered to be in accordance with the Development Plan when considered as a whole and in accordance with the NPPF when considered as a whole.

The NPPF guides on the presumption in favour of sustainable development, and this means for decision making approving development proposals that accord with an up-to-date development plan without delay.

Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. There are no material considerations that indicate otherwise in this instance.

The application is, for the reasons stated above and contained within this report, recommended for approval.

The above conclusion is also guided by advice contained within the NPPF that outlines that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It also furthers that decision-makers at every level should seek to approve applications for sustainable development where possible. There are, for the reasons within this report, no substantive reasons to not grant planning permission.

### **Officer Recommendation**

Approval: Subject to;

The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency, the completion of a Section 106 Legal agreement to secure a tree mitigation payment of £71,531.00 and;

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

### **Conditions**

#### **Drainage**

Prior to the first use of the development surface water drainage shall be provided in accordance with the submitted flood risk assessment (rev 1.) received 01.03.24 and shall be retained and maintained at all times thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

#### **Nesting season - birds**

All demolition and/or the removal of any vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall

be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found, no works shall be undertaken until the birds have fledged.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

### **Biodiversity measures**

Prior to the first use of the building hereby approved, measures to maximise opportunities for biodiversity enhancement in and around development, in order to deliver a net gain for biodiversity shall be incorporated and maintained thereafter. This shall include one bird box and one bat box mounted within the tree group immediately east of the Site. The boxes should be installed at a minimum height of 3m with the bird boxes mounted so to avoid the southerly aspects as they can become too hot in the summer.

Reason: In order to ensure biodiversity enhancements in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

### **Low Carbon Development**

Prior to any development other than demolition, the applicant must provide detailed energy and sustainability statements. The statements will need to outline in detail the specific details that will be incorporated into the site to meet Policy SS14 and ES1 of the Local Plan. Drawing out specifically how the site:

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

Reason: In interests of tackling climate change and securing low carbon development, in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030 and guidance contained within the NPPF.

### **Solar Panels**

Prior to the first occupation of the development hereby approved, details of the proposed solar panels shall be submitted for approval in writing by the Local Planning Authority. The approved measures shall be fully incorporated within the development prior to its first use and maintained as such thereafter.

Reason: To ensure an acceptable form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Contaminated Land**

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the local planning authority. The remediation strategy shall be implemented as approved.

Reason(s) To ensure that the development does not contribute to and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework.

### **Materials**

Prior to the installation of all external material within the development samples of all the materials, physical or digital, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Adopted Torquay Neighbourhood Plan 2012-2030.

### **Landscaping**

All hard and soft landscape works shall be carried out in accordance with the approved details and managed in accordance with the details provided within the approved Ecological and Arboricultural Technical Note. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme (phasing) agreed in writing with the Local Planning Authority. Any trees or plants indicated on the approved scheme which, within a period of five years from the date of the development being completed, die, are removed or become seriously damaged or diseased shall be replaced during the next planting season with others of a similar size and the same species. All hard landscaping works shall be permanently retained thereafter in accordance with the approved details.

Reason: In the interests of amenity and design in accordance with Policies DE1, C4 and NC1 of the Torbay Local Plan 2012-2030, and advice contained within the NPPF

### **Delivery and Servicing Management Strategy**

Prior to Commencement of the hereby permitted development, a Delivery and Servicing Management Strategy must be submitted to and approved in writing by the Local Planning Authority which sets out how the new buildings will be accessed and served and must include swept path assessment drawings of LGVs (min length 7.2m) and any known HGVs that will serve the site. The approved strategy shall be implemented prior to the first use of the building and retained as such for the lifetime of the development.

Reason: To ensure satisfactory and safe servicing and delivery arrangements as per NPPF Para 116(d)

### **Construction/Demolition Management Plan**

Prior to any works, including demolition, a site-specific Construction/Demolition Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.

- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:

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

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust.

The approved plan shall be adhered to throughout the construction phase of the development.

Reason: In the interests of the amenities of surrounding occupiers and users of the Hospital during the construction of the development and in accordance with Policy DE3 of the Local Plan. This information is required prior to development in order to ensure that the construction phase of the development does not have an adverse impact on residential amenity.

### **Construction Management Plan - Highways**

Prior to Commencement of the hereby permitted development, a Construction Management Plan must be submitted to and approved in writing by the Local Planning Authority. Thereafter the construction of the development shall only be carried out in accordance with the approved Plan.

The Construction Management Plan / Statement shall include details of:

- a. Construction vehicle numbers, type, routing;
- b. Access arrangements to the site;
- c. Traffic management requirements
- d. Construction and storage compounds (including areas designated for car parking, loading / unloading and turning areas);
- e. Siting and details of wheel washing facilities;

- f. Cleaning of site entrances, site tracks and the adjacent public highway;
- g. Timing of construction activities (including delivery times and removal of waste) and to avoid school pick up/drop off times;
- h. Provision of sufficient on-site parking prior to commencement of construction activities;
- i. Post construction restoration/reinstatement of the working areas and temporary access to the public highway;
- j. where works cannot be contained wholly within the site a plan should be submitted showing the site layout on the highway including extent of hoarding, pedestrian routes and remaining road width for vehicle movements.

Reason: In order to protect highway safety and the amenity of other users of the public highway and rights of way in accordance with NPPF Para 114 (d).

### **Cycle Parking Strategy**

Prior to Occupation of the hereby permitted development, a cycle parking strategy must be submitted which provides details of the cycle store. The cycle store must be designed in-line with the DfT's Cycle Infrastructure Design Guide LTN1/20 and Inclusive Mobility Design Guide, and must include details of security measures, the split between staff and visitors, and how all types of cycles will be accommodated.

Reason: In order to provide cycle parking that will encourage cycle use for all possible users and encourage cycle usage, as per NPPF Para 116(a &b).

### **Tree Protection Measures**

Prior to the commencement of development including demolition, the tree protection measures outlined in approved tree protection plan section of the Arboricultural Method Statement, entitled Tree Retention Plan, shall be implemented in full. The approved protection measures shall be maintained in full throughout the construction phase of the development.

Reason: In order to ensure against harm to mature trees within the vicinity of the development either directly or to their rooting system, in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030. These details are required to be implemented prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.



## **Development Plan Relevant Policies**

- SS1 - Growth Strategy for a prosperous Torbay
- SS3 - Presumption in favour of sustainable dev
- SS8 - Natural Environment
- SS9 - Green Infrastructure
- SS11 - Sustainable Communities Strategy
- TA1 - Transport and accessibility
- TA2 - Development access
- TA3 - Parking requirements
- C4 - Trees, hedgerows and natural landscape
- DE1 - Design
- DE3 - Development Amenity
- ER1 - Flood Risk
- ER2 - Water Management
- NC1 - Biodiversity and geodiversity
- TS1 - Sustainable Development
- TS4 - Support for Brownfield and Greenfield development
- TH8 - Established architecture
- TE5 - Protected species habitats and biodiversity
- TH2 - Designing out crime
- TTR2 - Sustainable Communities
- THW5 - Access to sustainable transport