

Application Number

P/2018/0522

Site AddressLand Off Luscombe Road
Paignton**Case Officer**

Mr Alexis Moran

Ward

Blatchcombe

Description

Reserved matters application relating to outline application P/2014/0938 (formation of up to 68 dwellings with associated road and landscaping) REVISED PLANS RECEIVED

Executive Summary

This is a Reserved Matters application relating to appearance, landscaping, layout and scale of 68 dwellings. The submitted layout plan broadly follows the master plan approved as part of the Outline Application P/2014/0938. Condition 1 of the outline permission, which refers to the information required as part of the reserved matters application, states that the reserved matters application should be based on the approved Master Plan.

The proposed development would result in 68 new dwellings in a sustainable location; the form, layout and design of the proposed dwellings would be compatible with appearance and character of the surrounding area. Consequently it is, on balance, considered to be appropriate for conditional reserved matters approval, having regard to all national and local planning policies and all other relevant material considerations.

Recommendation

Conditional approval.

Site Details

This 1.5 hectare site was allocated for housing in the previous Torbay Local Plan (H1.13) and is identified as a potential site for allocation for the Paignton Neighbourhood Plan (Policy SDP 3) in the adopted Local Plan. It is located to the east of Luscombe Road and to the north of its junction with Queen Elizabeth Drive. Two dwellings originally occupied the north-west corner of the site (one of these has been demolished) and the balance of the site is rough pasture but was previously used for camping. It falls within an established residential area.

The site occupies the south east slope of a valley and it slopes quite steeply from north east to south west across the site. The site is bounded to the west by the Luscombe Road designated cycle route and the boundary is defined by a mature hedgerow of 'important' ecological value. A number of trees occupy the site; those within the main body of the site identified as being of arboricultural value have

recently been subject to a TPO. The boundary trees of arboricultural merit are also protected by a TPO.

The site is, apart from the hedgerow and trees, of limited ecological value comprising predominantly horse-grazed pasture. The existing vehicular access to the site is from Luscombe Road. This is a designated cycle route and it provides a safe walking route to school to Kings Ash Academy.

A South West Water main runs north to south across the site and requires a substantial 6 metre easement to be retained free of development. The site is located within Flood zone 1.

Detailed Proposals

This is a Reserved Matters application relating to appearance, landscaping, layout and scale of 68 dwellings. The submitted layout plan broadly follows the master plan submitted as part of the Outline Application P/2014/0938. Condition 1 of the outline, which refers to the information required as part of the reserved matters application, states that the reserved matters application should be based on the approved Master Plan.

The development would be accessed via Luscombe Road to the south-west. The vehicular access point would be formed through an existing agricultural field access close to the junction of Luscombe Road and Queen Elizabeth Drive. This is formed largely from public highway verge fronting 42 Luscombe Road but does extend partway into the Luscombe Road cycle route. The vehicular access was approved as part of Outline Application P/2014/0938.

In total 54 (80%) of the dwellings are for private sale while 14 (20%) of the dwellings will be affordable homes. The dwellings proposed include 2, 3, and 4 bedroom houses. The affordable units would consist of 2 and 3 bedroom houses, with the addition of a pair of 2 bedroom disable access bungalows. The private sale dwellings consist predominantly of 3 bedroom houses (38), with the remainder being smaller two bedroom (14) and larger 4 bedroom (2) homes.

Two areas of Public Open Space are proposed, one in the northern part of the site between units 66 & 67 and one in the southern part adjacent to the proposed access. Existing focal landscape and boundary features such as the hedgerow and a number of existing trees that form the northern and southern boundaries of the site are to be retained.

There is provision for 136 car parking spaces and garages.

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")

Material Considerations

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

Summary Of Consultation Responses

Natural England: No comment

Environment Agency: No comments received

Ecology consultants: *Following review of the relevant documents, no key ecological issues were identified in relation to the determination of this application. The development site is largely surrounded by residential properties with small areas of woodland directly adjacent and open farmland located approximately 150m to the west. The on-site ecological survey work was largely completed in 2013 for the original planning application (P/2014/0938) and included an extended phase 1 habitat survey along with specific surveys for hedgerows, reptile, hazel dormouse, badger and bats. An updated extended phase 1 habitat survey and updated building inspection for bats were undertaken in March 2018 to determine any changes in the localised habitat and potential for protected species.*

*The EIA and Ecology Update reports indicated that the site boundaries offered potential commuting and foraging habitat for bats. Bat species recorded during activity surveys in 2013 were common pipistrelle *Pipistrellus pipistrellus*, soprano pipistrelle *Pipistrellus pygmaeus*, *Myotis Myotis sp.*, greater horseshoe bat and lesser horseshoe bat *Rhinolophus hipposideros*. Buildings recorded on the site were considered to provide negligible to low potential to support roosting bats. Several trees were identified as having low potential to support roosting bats. No confirmed bat roosts were identified on the site. All of the bat survey work was carried out in accordance with the latest Bat Conservation Trust guidelines at the time of survey.*

The ecological reports indicated that the site supported small numbers of slow worm (field margins) as well as providing foraging habitat for badger and suitable habitat for a range of common breeding bird species.

Although the site falls within the Devon great crested newt consultation zone, the EIA Report stated that no breeding habitat was identified within the site or adjoining areas and further survey was ruled out.

The site falls within the Devon cirl bunting consultation zone. The ecology reports indicated that there was little suitable habitat to support the species, with the isolated nature of the site, being surrounded by residential property, also limiting its potential.

A summary of the impact assessment, mitigation and residual effects was provided in Table 3 and Figure 1 of the Ecology Update Report. This included a number of measures to mitigate for any potential effects on local habitats, amphibians, badger, bats, nesting birds, invertebrates and reptiles. Further enhancement measures were also detailed within the Design, Access and Planning Statement, including planting locally native species to enhance proposed public spaces within the housing development.

The Councils ecology consultant suggests that there is no reason for refusal of this planning application on ecological grounds provided the proposals within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report are implemented. A Landscape and Ecology Management Plan (LEMP) or equivalent should be produced prior to construction to ensure that all mitigation is appropriately managed in the long-term. We would recommend that these measures are secured via appropriately worded planning conditions when this application is determined.

Drainage: Drainage details were requested via a condition on the outline permission P/2014/0938 and are required prior to commencement.

South West Water: *The applicant should demonstrate to your LPA that its 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):*

- 1. 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.*
- 2. 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)*

3. *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)*
4. *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.*

Strategic Transport: Have requested additional information regarding junction capacity, more information on a ward basis rather than town wide and clarification re road widths/tracking for refuse vehicles etc. A request for £153,436 sustainable transport contribution is made to improve walking and cycle links in the area.

Highways: No objection

Arboricultural Officer: The revised layout appears to give better consideration of the trees growing on the north eastern boundary. The submitted tree protection plan has not been updated to accommodate the new layout. However, there is now more room for T15 to establish, although this is one of the trees that may need a detailed inspection to assess its long-term suitability for the site.

The updated review of the submitted tree report and plans shows there has been a slight deterioration within the tree stock and there are possible tree management issues to address.

There is block paving proposed within the RPA of retained trees. The installation of this will need to be covered within a method statement which will also cover other proposed landscaping works within the RPA of retained trees.

Tree removal is proposed as part of this scheme which include low, moderate and high value trees. Only two new trees are proposed for removal as part of the revised scheme. These are T26 and T24 which are a beech and a cypress. A review of the site and surrounding area didn't provide significant enough views to identify these specimens as "significant" in terms of public amenity. This would indicate that the trees will be easily mitigated for through the submission of a comprehensive and detailed landscaping plan.

As no TPP has been included with this application, a revised one will need to be drawn up to address the revised layout and areas for the arboricultural method statement.

RECOMMENDATION:

Approval subject to conditions

1. Submission of revised TPP prior to work commencing.
2. Submission of arboricultural method statement prior to works commencing.

Architectural Liaison Officer: *All gates that lead to rear gardens must match the same height and robust construction as the adjoining boundary treatment (1.8m as a minimum height requirement).*

All gates that lead to rear gardens must be capable of being locked from both sides so that rear gardens are secure regardless of access or egress.

All garden dividing material must be a solid fence or wall to a height of 1500mm or a 1200mm solid fence or wall with the option of raising to 1500mm or 1800mm by use of trellis or ironwork topping.

Housing Delivery Officer: Housing Services are pleased that previous comments have been taken on board with regards to the location of the affordable housing units and there are no objections to the revised planning drawing 126 revision p3.

Paignton Neighbourhood Forum: object to the scheme and state that the proposal needs to be submitted to the Design Review Panel in accordance with NPPF62 and their report presented in public to the Development Management Committee before a decision on the application is made as it is considered the form and layout of the proposal is completely out of character with its surroundings

Summary of Representations

Twenty three objections to the scheme had been received at the point at which this report was written. The concerns raised are as follows.

1. Overdevelopment/out of character with surrounding residential area/cramming.
2. Impact on amenity/loss of privacy/overlooking/impact of flats/noise.
3. Loss of greenspace/impact on trees/wildlife.
4. Flooding/septic tanks.
5. Impact on schools/infrastructure.
6. Highway capacity/traffic/impact on junctions to the A380.
7. Access from the site crossing cycle route.

Relevant Planning History

P/2014/0938 - Formation of up to 68 dwellings with associated road and landscaping; Approved 14.05.2018

Key Issues/Material Considerations

The principle of residential development of this site is long established through the previous allocation in the Local Plan and the granting of Outline planning permission for up to 68 dwellings.

The key issues relate to the appearance, landscaping, layout and scale of development being proposed, its impact on the wider area and the mitigation needed to ensure that its impact on the area is appropriately addressed.

The matters for consideration are:

1. The character of the scheme.
2. The impact on the surrounding properties in terms of amenity.
3. Proposed Landscaping, impact on trees and ecology.
4. Flooding and drainage.
5. Impact on Highway network and traffic related concerns.
6. CIL

Each will be addressed in turn.

1. Layout, Appearance, and Scale

An indicative layout was provided as part of the outline application, this was subsequently included in condition 1 of the outline permission P/2014/0938. This condition states that the submitted reserved matters shall be based on the approved Master Plan as shown in Plan No.3528 (12) 03 rev P1 and the design concepts outlined within the associated Design and Access Statement dated July 2014.

The layout submitted is broadly based on the Master Plan with the main difference being that the perimeter blocks would now have a different arrangement. This allows for the primary frontages of the dwellings to face outward and turn corners where required, providing more active frontages, which better address the internal road and provide natural surveillance over the public realm.

The proposal is for the provision of 68 residential dwellings and the development would achieve an average density of approximately 16 dwellings per acre. This relates well to the existing density of development adjoining the boundaries of the site, and also accounts for the topography and retention of significant areas of vegetation and open space. The development would consist of two to four bedroom family sized homes.

The proposed dwellings would be finished predominantly with red brick with render used to establish focal buildings through the site and to provide a different texture to corner buildings. Interconnecting concrete pan tiles would be used on the roofs of the buildings.

In order to accommodate the changing ground levels across the site, the sets of terraced properties running across the higher part of the valley side (to the east) are 2-2.5 storeys in height with lower level car parking facing over the valley. This will result in retaining walls with parking areas in front of them, these are to be

broken up with tree planting. The form of development here complies with that proposed by the Master Plan. It is considered that details of the facing materials for retaining walls on the site are sought by condition, it is deemed that the use of brick would be more suitable than render which may discolour over time.

The properties to the south-east of the site are 2-3 storeys in height, unit 40 has been altered from 3 storeys to 2 storeys. A parking area has also been removed from this part of the site to reduce its impact on the adjacent properties on Luscombe Road. There is an area of public open space on the southern boundary of the site.

To the west and south-west of the site the layout of properties is that of loose perimeter blocks which provide active frontages to the road. Unit 35 is sited to provide punctuation and address the corner in line with the orientation of the road. The units in this area are 2-2.5 storeys in height. There is an area to the rear of unit 16 which is shown as a shared surface and includes 6 parking spaces. The Council have requested that the applicant consider a different method of providing parking in this location which would be more neighbourly and reduce the potential for future conflict. There are also areas of parking to the north and south/south-east of the site where the Council have requested amendments.

The properties to the north of the site range from 1-3 storeys in height with those at the far north of the site spanning across the full width of the site. There is an area of public open space adjacent to units 66 & 67 which provides an area of relief from the urban form of the development and allows for the addition of an area of quality landscaping.

The proposed development seeks to respect the existing character of the area in terms of design and with regard to the palette of materials proposed. The orientation of many of the units will seek to capitalise upon the views over the open countryside that are available to the west. This scale and form of development is less dominant than the 4 storey blocks of flats which occupy the adjacent site.

Safe pedestrian routes will be provided throughout the site, through the use of footpaths, shared surface roads and private drives.

The affordable units have been provided in two main clusters, housing services have confirmed that they are happy with this layout. Two of these (units 5 & 6) are to be accessible units and the applicant has confirmed that these will meet the accessible specifications as required by the s106 agreement for the Outline permission.

It is considered that the form and layout of the scheme makes effective use of the land and responds well to the topography of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form appears to respond effectively to

the topography of the site and is reasonably consistent with more recent development in the area. Given its position, landscaping, and design within the existing urban area, it is considered that it would have limited visual effects on the more open rural areas beyond the site to the west.

Bearing the above points in mind the proposal is deemed to comply with Policy DE1 (Design) of the Local Plan which, among other things, requires development to be uncluttered and attractive, acknowledge local character and develop distinctive character in townscape and landscape terms, relate to the surrounding built environment in terms of scale, height and massing and have a clear urban structure and grain that integrates with the surrounding context.

It is noted that there is an objection to the scheme from the Paignton Neighbourhood Forum which states that the form and layout of the proposal is completely out of character with its surroundings. However there is an outline consent on the site for up to 68 dwellings with a condition advising that the layout should be based on the Master Plan submitted with the application. As previously mentioned, the submitted layout is broadly based on the Master Plan, and is considered to be an acceptable way to accommodate the number of units proposed within the land area available, considering the constraints upon it.

Policy SS11 (Housing) states that there is a requirement for 8,000-10,000 new homes to be built within the plan period as long as these can be delivered without harm to either the economy or the environment. Torbay does not currently have a 5 year housing land supply and the site has not been allocated in the Paignton Neighbourhood Plan. The proposed development provides the opportunity of a deliverable sustainable development in Paignton, which meets the needs and demands of local communities for new open market and affordable housing.

2. The impact on Amenity

Policy DE3 (Development Amenity) requires that all development should provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring or surrounding uses.

When considering the impact on the surrounding properties and firstly concentrating on those to the north on Montesson Road, the distance between the rears of the proposed properties and the side elevation of 12 Montesson Road is approximately 15m which, in an urban environment, is considered to be an acceptable side to rear relationship.

The distance between the rear elevations of 1 & 3 Montesson Road and the rear elevations of the closest proposed properties is in excess of 20m, a distance which is deemed to be acceptable in terms of potential overlooking/loss of privacy.

The distance between the side elevations of the 4 storey apartment blocks to the

north of the site and the rear elevations of the proposed units is acceptable and it is not deemed that this would result in an unacceptable level of overlooking/loss of privacy.

The separation distances between the properties on Kings Ash road and the proposed development is sufficient to prevent any unacceptable impacts with regards to loss of privacy/overlooking.

To the south of the site, alterations have been made to the proposal with a parking area removed from this boundary and unit 40 being reduced in size and massing and orientated differently. It is considered that the amendments now provide a suitable residential environment between the properties to the south on Luscombe Road (no. 42 & The White House).

Turning to the relationship internally, between the proposed dwellings, the layout is such that there are minimal conflicts in terms of overlooking/loss of privacy and outlook. The side to rear and rear to rear distances are considered to be acceptable in terms of the requirements of Policy DE3. The distance between the front and rear of units 19 & 20 is approximately 6m however the orientation of the two would mean that views between properties would be oblique. It is considered that their orientation to one another, does on balance, result in a relationship which would not result in a significant level of overlooking/loss of privacy.

The gardens of all the properties and the internal floor areas meet the standards set out in the local plan relating to policy DE3. As previously noted, alterations to some of the parking areas have been requested to improve the relationships between vehicles and dwellings.

There is a slight concern with regard to the rear gardens of units 64-66 where, based on the submitted plans, there appears to be overhanging tree limbs which may result in dark rear gardens and pressures to fell the trees to the rear of these properties.

Although the rear gardens of units 64-66 provide suitable amenity spaces in terms of size standards there is potential for them to have limited light, and to suffer from tree debris and sap fall. Although it is not considered that this would lead to unacceptable levels of light into habitable areas, the quality of the amenity spaces would be somewhat reduced.

However the applicant has submitted a shadow analysis plan which appears to show that the trees would not cause a significant loss of light to the rear gardens of these properties.

Overall however it is not considered that the spatial relationship between the trees and units 64-66 is sufficient enough to warrant the refusal of the application and the arboricultural officer has not raised an objection on this point.

Tree details were conditioned as part of the outline permission where an Arboricultural Implications Study was requested prior to the commencement of development.

Given its siting, scale, and design, it is considered that the proposal would not result in unacceptable harm to the amenities of existing occupiers, and that it would provide an adequate standard of living accommodation for the enjoyment of the proposal's future occupiers. In these respects, the proposal is considered to be in accordance with Policy DE3 of the Torbay Local Plan.

3. Landscaping, Trees, and Ecology

The principle of the proposed development is established, however, the proposed landscaping is under consideration, and all of the reserved matters being considered can have potential knock-on effects in relation to ecology and trees.

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features, particularly where they serve an important biodiversity role. There are 36 trees on the site; 19 are to be retained with 17 being removed. Of the trees to be removed, 6 are protected by a tree preservation order, these are located on the boundary edge. Two additional trees are to be removed as part of this Reserved Matters application. The submitted tree report states that these are showing signs of neglect or damage.

The Councils Arboricultural Officer has advised that the loss of the trees would not be considered as "significant" in terms of public amenity and they could therefore be mitigated for. The Councils Arboricultural Officer has advised that the revised layout appears to give better consideration of the trees growing on the north eastern boundary and that the updated review of the submitted tree report and plans shows there has been a slight deterioration within the tree stock.

Although the development will inevitably result in the loss of some trees, the proposed development has been designed to limit the impact on the landscape. Two areas of open space are provided on site, one to the south and one to the north-east which include improvements to landscaping and tree planting. The scheme provides on-street tree planting to break up the urban form of the development and create soft corners. It is deemed that the mitigation planting and the creation of two public open spaces would serve to soften the proposal's impact within the wider landscape and result in an acceptable effect on both landscape and visual receptors.

Comments from the Councils Arboricultural Officer requested conditions regards Tree Protection Plans and an Arboricultural Method Statement. However this is not deemed necessary as there is a condition on the outline permission (P/2014/0938) which requires the submission and approval of an Arboricultural Implications

Study. This includes the submission of details of all the trees and hedgerows to be retained and tree protection measures in relation to all retained trees and hedgerows and that a Method Statement shall also be submitted setting out how works are to be implemented adjacent to retained trees and hedgerows. Details of the management of the retained hedgerows during the construction period shall form part of the Implications Study. These details are to be considered as part of an application for the discharge of this condition.

In terms of the ecological value of the site, an Ecological Impact Assessment has been submitted following a Phase 1 Habitat Survey. This identifies broad mitigation and enhancement proposals pre and post construction, and seeks to ensure that the most important ecological features of the site are protected and indeed improved.

A summary of the impact assessment, mitigation and residual effects was provided in Table 3 and Figure 1 of the Ecology Update Report. This included a number of measures to mitigate for any potential effects on local habitats, amphibians, badger, bats, nesting birds, invertebrates and reptiles. Further enhancement measures were also detailed within the Design, Access and Planning Statement, including planting locally native species to enhance proposed public spaces within the housing development.

The submitted ecological impact assessment notes that bats use the lane for commuting purposes. The Council's ecology consultant has advised that the proposals are unlikely to affect the use of the lane by individual bats therefore it is extremely unlikely this development would have a Likely Significant Effect on the integrity of the South Hams Greater Horseshoe Bat Special Area of Conservation (SAC). As such it is unlikely that a Habitat Regulation Assessment (HRA) is required however the Council will screen the proposal to confirm this. An update will be provided to the DMC.

The Council's ecology consultant has no objection to the scheme subject to the proposals within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report being implemented and subject to a Landscape and Ecology Management Plan (LEMP) being conditioned. However, the Outline permission already requires the submission of a LEMP and a CEMP (Construction and Ecology Management Plan). Therefore this is already addressed, it is considered that a condition requiring the implementation of the mitigation measures in the Ecology Update Report can be requested by condition.

The Outline permission also required the submission of an external lighting strategy prior to the occupation of any of the units. This is to ensure the lighting from roads and footpaths has a minimal impact on bats in the area.

Subject to the aforementioned condition and further discharge of condition information in relation to the outline consent, the proposal is deemed to comply

with Policies C4 and NC1 of the Torbay Local Plan.

4. Flooding and Drainage

Comments from South West Water are noted, however a condition relating to the submission of drainage details prior to the commencement of development was added to the Outline permission P/2014/0938. As such these details will be provided to the Council as part of a separate assessment exercise.

5. Highway Impact

These details were determined at the outline stage with conditions added to P/2014/0938 accordingly. The Council's Highways Department has confirmed that the road layout is acceptable and is of a standard which is adoptable. This accords with the requirements of the outline permission. The proposed layout includes parking spaces for 136 cars, or 2 per dwelling, which complies with the Council's parking standards.

The proposal is deemed to comply with Policies TA2 & TA3 of the Local Plan.

6. Community Infrastructure Levy

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

Neighbourhood Plan

The Paignton Neighbourhood Plan is currently at examination stage and the relevant policies for this application are Policy PNP1 (Area wide – provide housing growth appropriate to meet local needs and the strategic needs set out in the Torbay Local Plan 2012-2030, including affordable housing), PNP1(c) (Design Principles), PNP1(d) Residential Development and PNP20 (Great Parks). These requires development to be in keeping with the surroundings in terms of scale, density, height, design and landscaping and to comply with the Great Parks master plan. The proposal is deemed to comply with these Policies.

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.

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.

Proactive Working

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework the Council has worked in a positive and pro-active way but has concluded that the application is unacceptable for planning approval.

Conclusions

The proposed layout, scale, appearance, and landscaping are considered to be acceptable, subject to the use of conditions. As such, the proposal is considered to be in accordance with the Torbay Local Plan, and all other material considerations.

Condition(s)/Reason(s)

01. Prior to development above damp proof course level details of the proposed cladding (walls and roof), openings, retaining walls and hard landscaping materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030

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

Reason: In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

03. All planting, seeding or turfing comprised within the landscaping scheme hereby approved shall be carried out in the first planting season following the

completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within three months of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1 & C4 of the Adopted Torbay Local Plan 2012-2030.

04. The dwellings hereby approved shall not be occupied or brought into use until the associated parking spaces and manoeuvring areas detailed on the approved plans have been completed. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

05. Prior to the first occupation of each dwelling hereby permitted, provision shall be made for its refuse and bicycle storage according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030

06. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to E, no enlargements, improvements or other alteration shall take place to either the proposed or existing dwellings within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

07. The development shall proceed fully in accordance with the mitigation recommendations within Table 3 and Figure 1 (Ecological Constraints & Opportunities Plan) of the Ecology Update Report. These measures shall be retained as such for the life of the development.

Reason: To ensure that the development proceeds in an appropriate manner, in

accordance with Policy NC1 of the Torbay Local Plan.

08. Prior to the construction of the proposed retaining wall at the rear of Plot 68 indicated on drawing ELL-220-PER-B-3000, a geotechnical engineering assessment of the stability of the retained soils with regard to any potential destabilising effects brought about by construction and/or in-service conditions shall be submitted to the Local Authority for its approval in writing. The retaining wall shall be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

Reason: To ensure a safe and satisfactory development and in accordance with Policy ER4 of the Torbay Local Plan.

Informative(s)

01. Community Infrastructure Levy (CIL) This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough CIL next steps required under the CIL Regulations 2010 (as amended): Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure. Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development. The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice. The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure. Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations). Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

02. For the avoidance of doubt, any works to be undertaken within the public

highway will require the separate consent of the Highway Authority.

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

Relevant Policies

DE1 - Design

DE3 - Development Amenity

H1 - New housing on identified sites

TA3 - Parking requirements

TA2 - Development access

C4 - Trees, hedgerows and natural landscape

NC1 - Protected sites - internationally important

SS11 - Sustainable Communities Strategy

ER4 – Ground Stability