

**Application Number**

P/2018/0184

**Site Address**Astoria Court  
5 Belle Vue Road  
Paignton  
TQ4 6ES**Case Officer**

Mr Robert Brigden

**Ward**

Roundham With Hyde

**Update**

Members resolved, on the 12<sup>th</sup> November, 2018, to defer planning application P/2018/0184 to enable officers to negotiate amendments to the scheme, with a view to overcoming the previously identified concerns. The original committee report is detailed below in italics.

The original report raised concerns about the proposal's impact on the character of the area, and the standard of accommodation to be provided. Officers have subsequently entered into dialogue with the applicants and have agreed the following amendments:

- Unit 2 - An area of private amenity space to be provided at the front of this unit. This is requested in order to prevent conflict immediately outside its NE facing windows, thereby reducing the potential for loss of privacy and disturbance from the adjoining communal area, and also to provide an enhanced private amenity space.
- Units 2 & 3 – Additional means of enclosure to be provided between the rear amenity spaces serving Units 2 and 3. This is requested to prevent disturbance and conflict in the use of these private amenity spaces.
- Unit 3 – Additional boundary treatment along the access path to Unit 10 to provide a stand-off from the rear windows of Unit 3. This is requested in order to limit disturbance and overlooking to Unit 3.
- Adjustment of the pathway and steps leading to Units 3 and 10 to improve their usability.
- Unit 7 – Obscure glaze first and second floor windows to its elevation facing the rear amenity space of Unit 2. This would provide a more private amenity space at the rear for unit 2.
- Unit 8 – Alter the gable roof feature on the rear 2-storey extension to a hipped roof; provide additional screening along the boundary with the

amenity space of Unit 2. The alteration of the gable roof to a hip on the 2 storey rear extension would provide a less dominant structure, and the additional screening would reduce inter-visibility from the entrance to Unit 8 to the bedroom window and amenity area of Unit 2.

- Unit 9 – Alter the gable roof feature on the rear 2-storey extension to a hipped roof; alter gable on the end elevation of the building to provide a hipped roof. The alterations would make the proposed conversion more subservient to the original building and diminish the proposal's impact on the character of the conservation area.
- Unit 10 – Obscure-glaze the ground and first-floor windows facing the Unit 3 amenity space. This would overcome concerns with regards to loss of amenity and inter-visibility between the windows of Unit 10 and the amenity area of Unit 3.
- A correction is required to the description previously provided in that the proposal would involve a mixture of demolition and conversion of the existing structures at the site.

Amended plans have now been received to secure the above changes. Taken together, these amendments are considered to have sufficiently raised the quality of the proposed development to a point that a recommendation for approval can now be made. The updated recommendation and additional assessment, which supplements the assessment detailed in the original committee report, are provided below.

Given the revised recommendation, it is considered necessary to advertise the proposal as a Departure from the Local Plan. This is because the proposal would not be fully compliant with the requirements of Policies DE1 and TO2, which seek the removal of later additions from original buildings under certain circumstances. This matter is discussed further below.

### **Updated Recommendation**

That planning permission be granted subject to the conditions detailed below; and the completion of a further period of public consultation, with the final drafting of conditions and addressing any material matters that might arise from the consultation exercise being delegated to the Executive Head for Assets and Business Services.

### **Updated Assessment**

#### **Consultee Advice**

The Council's Senior Historic Environment Officer continues to object to the

proposal on the grounds previously raised concerning its impact on the character of the conservation area.

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

Policy H1 of the Torbay 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. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed.

The historic use of the building is as holiday apartments with owner's accommodation. The site is located outside a Core Tourism Investment Area. Policy TO2 (Change of use of tourism accommodation and facilities) states that the change of use of holiday accommodation or facilities outside Core Tourism Investment Areas will be permitted where:

*1. The holiday character of the area and range of facilities and accommodation 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; or 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.*

It is considered that the proposed conversion from holiday accommodation to residential use would not significantly undermine the holiday character of the area or the range of holiday facilities. It is also considered that the proposal would bring other benefits, such as the provision of housing to help address the shortfall in the Council's 5 year housing land supply. Visually-speaking, the proposal would help to improve the existing situation by replacing unsightly extensions with what are considered to be superior additions. In these respects, the proposal is considered to be acceptable in principle.

Policy TO2 also requires 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 by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Additionally, a high priority will be given to restoring the character and appearance of buildings within conservation areas. Policy DE1 also states that, where appropriate, the removal of unsightly additions will be sought when considering the conversion of existing buildings.

Overall, the proposal would not result in a reduction in additions to the original building, and in this respect, the proposal would be contrary to Policies DE1 and TO2 of the Local Plan. On balance, however, and in this particular case, it is

considered that this harm is outweighed by other material considerations, namely:

1. The proposal would result in what is considered to be a significant improvement to the design of the original building's existing later additions, along with enhancements to the original building itself, and therefore a visual improvement compared to the existing situation;
2. The improved additions would be located towards the eastern side of the site, set well back from the public highway and well screened by the original building and large neighbouring buildings. The original, key building would continue to form the main element visible from the public highway and would benefit from enhancements benefitting its historic character;
3. To the extent that the proposal would result in harm to the character of the conservation area – by reason of the retention of later additions to the key building – this harm is considered to be very limited considering the proposed improvements to the existing structures and their siting;
4. Overall, the proposal would result in what is considered to be a spacious and reasonably well designed development, providing all of the required amenities, services, and parking spaces, along with dwellings that easily exceed the requirements for internal living space. As such, the proposal would contribute good quality residential accommodation to help address the shortfall in the Council's 5 year housing land supply.

## **2. Visual impact**

Policy SS10 of the Torbay Local Plan 2012-2030 states that developments within the conservation area should preserve or enhance its character; this is in compliance with the NPPF. Indeed Paragraph 193 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.

Policy DE1 states that development should be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.

The proposal would involve amending and improving a number of unsympathetic extensions to the original building and the restoration of the period detail of the property with the porch to the entrance of the building being reinstated to its original width. The materials proposed in the external finishes are in keeping with the original property. Unsympathetic windows are to be replaced with windows appropriate to the character of the original property and wider conservation area.

Following negotiation between planning officers and the applicant, a revised scheme has been received. It is considered that it would result in significant improvements to the design of the original building's later additions, along with enhancements to the original building itself, and therefore a visual improvement

compared to the existing situation. The additions would be located towards the eastern side of the site, set well back from the public highway and well screened by the original building and large neighbouring buildings. The original, key building would continue to form the main element visible from the public highway and enhancements to it would improve the contribution it makes to the character of the conservation area. As such, it is considered that the proposal would result in only limited harm to the character of the conservation area. To the extent that it would result in less-than-substantial-harm to its character, it would be of a limited nature and outweighed by public benefits in the form of what is considered to be the provision of a high quality residential development contributing to the Council's current housing shortfall.

Given the proposal's siting, scale, and design, it is considered that it would not result in unacceptable harm to the character or visual amenities of the locality. The identified harm to the conservation area is, in this instance, considered to be very limited and justified by public benefits. The proposal is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, and the guidance contained in the NPPF. This is subject to the use of conditions to secure adequate arrangements in relation to boundary treatment, cladding materials, refuse and bicycle storage, enhancements to the original building, and landscaping.

### **3. Amenity**

Policy DE3 (Development amenity) of the Torbay Local Plan details that all development should be designed to provide a good level of amenity for future residents or occupiers and should not duly impact upon the amenity of neighbouring and surrounding uses.

Given its siting, scale, and design, it is considered that the proposed development would have an acceptable impact on the amenities of neighbouring occupiers.

Units 4, 5, and 6 would not be served by private amenity spaces, however, there is considered to be sufficient communal amenity space to serve these units, particularly given the proximity of the site to publicly accessible open spaces, including beaches. Following negotiation between planning officers and the applicant, the scheme has been revised and the previously identified concerns in relation to the standard of accommodation to be provided have been addressed. The proposed dwellings would exceed the Council's requirements in terms of internal living spaces; would provide adequate private and communal spaces to serve the proposed dwellings; and each of the units would benefit from an acceptable standard of general amenity in terms of their outlook, access to natural light, and privacy.

To ensure an adequate standard of amenity for the proposal's future occupiers, conditions are recommended to secure acceptable arrangements in relation to

refuse storage, landscaping, boundary treatment, the use of obscure glazing, and the provision of a privacy screen between Unit 8 and the rear garden area of Unit 2.

Subject to the use of these conditions, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

#### **4. Other Considerations**

In all other respects, the proposal was previously considered to be acceptable, in some cases subject to the use of conditions. Planning conditions are recommended below and these reflect both this updated assessment, and the assessment previously undertaken.

#### **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. 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.

#### **Conclusions**

Whilst the proposal would, to some extent, be contrary to the requirements of Policies DE1 and TO2, the specific circumstances of this particular site and proposal are such that, on balance, it is considered that the identified harm is outweighed by other material considerations. As explained earlier in this report:

1. The proposal would result in visual enhancements to the existing additions to the original building;
2. These additions are well screened from public vantage points and the proposed enhancements in relation to the key building, which is the most prominent building at the site, would improve the contribution it makes to the conservation area;
3. Given the siting and design of the proposal, the less than substantial harm identified is considered to be limited in this case;
4. The proposal would provide what is considered to be a reasonably good quality development that would contribute ten dwellings to help address the Council's current housing shortfall.

As such, the proposal is recommended for approval, as per the recommendations detailed earlier in this report.

## **Conditions**

### **Materials**

No development shall take place until details of the proposed cladding materials (walls and roofs) and openings have been 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.

### **Boundary Treatment**

Prior to the first occupation of the development hereby permitted, 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.

### **Landscaping**

No development shall take place until details of all proposed hard and soft landscaping have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme 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 four weeks 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 Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

### **Refuse Storage**

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection 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.

#### *Key Building*

No development shall take place until details of the proposed openings, roof and wall materials, and other modifications and improvements to the key building (the original building) have been submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented in full prior to the occupation of the first unit to be completed within the key building, and shall be retained thereafter.

Reason:

To protect the character of the conservation area, in accordance with Policy SS10 of the Local Plan.

#### *Construction Method Statement*

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.



Reason:

This information is required prior to commencement to safeguard the amenity of the locality in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

External Lighting

No development shall take place until a scheme of external lighting has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include a lighting assessment with measures to prevent light-spill into the surrounding area and harm to protected species. The development shall be undertaken in accordance with the approved scheme and shall be retained as such for the life of the development.

Reason:

In the interests of amenity/biodiversity and in accordance with Policies DE3 and NC1 of the Adopted Torbay Local Plan 2012-2030.

Parking and Manoeuvring Areas

The dwellings hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring areas detailed on the approved plans have been provided. 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.

Bicycle Storage

Prior to the first occupation of the development hereby permitted, a scheme of bicycle storage 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 storage arrangements 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.

### Permitted Development

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 the proposed house(s) within the application site, and no outbuildings or other means of enclosures shall be erected within the associated garden areas, 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.

### Obscure Glazing

All of the obscure-glazed windows detailed on the approved plans shall be installed as such prior to the first occupation of the associated dwellings, and then retained as such for the life of the development. The obscure glazing shall meet or exceed Pilkington Level 4, or equivalent, and shall be fixed shut or limited to openings of no more than 100mm.

Reason:

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

### Privacy Screen

Prior to the first occupation of Unit 8, details of a privacy screen to be erected along the boundary between Unit 8 and the rear amenity space of Unit 2 shall be submitted to the Local Authority for its approval in writing. The approved privacy screen shall be installed prior to the first occupation of Unit 8 and thereafter be retained indefinitely.

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

### Tree Protection

All works associated with the development hereby approved are to be carried out in accordance with Tree Protection Plan 04979 TPP.

Reason:

In the interests of tree protection, biodiversity and wider visual amenity and to

accord with Policy C4 of the Torbay Local Plan.

*Bird Breeding Season*

No removal of hedgerows, trees or shrubs shall take place between 1st March and 31st August inclusive in any given year, unless prior to the commencement of works a detailed biodiversity survey by a competent ecologist has been submitted to and approved in writing by the Local Planning Authority. The survey shall include the details of the check of vegetation for active birds' nests immediately before the vegetation is cleared and provided written confirmation that no birds will be harmed and/or that there are appropriate measures in place to protect nesting birds on the site. The development shall then be carried out in accordance with the details submitted.

Reason:

In the interests of protected species and in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030

*Flood Risk*

The building shall not be occupied until the surface water drainage detailed on plan reference 02617E-500 revision D (received 20.09.2018) & approved hydraulic design have been completed in accordance with the submitted plans. The surface water drainage system as detailed on these plans shall then be continually maintained thereafter.

Reason: As Torbay is designated as a Critical Drainage Area and to ensure that the development does not increase flood risk elsewhere in accordance with policies ER1 and ER2 of the Torbay Local Plan 2012-2030.

**Informatives**

*Protected Species Informative:*

Responsibilities of the applicant / developer.

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other

than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

### CIL Informative

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).

### Proactive Working Informative

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.

### **Original Committee Report (12<sup>th</sup> November Committee)**

#### **Description**

*Conversion of existing building to form 5 houses and 5 apartments, including: demolition of existing extensions, erection of two-storey and first-floor extensions, installation of three new dormers, and formation of pitched roof over existing flat roofed outbuilding.*

#### **Executive Summary/Key Outcomes**

*The application seeks permission for the creation of 5 houses and 5 apartments, along with associated development, including a 16 space car park and associated amenity space.*

*The site includes a key building within the Roundham and Paignton Harbour Conservation Area.*

*Whilst the application proposes some positive alterations to the original property, including the restoration of some of the original features, the extension to the east of the original building, which includes a two-storey element, is deemed to be of an excessive length and scale. The extension would be wider than the original building and rather than being subservient to it, would appear to be overly dominant, resulting in harm to the character and appearance of the original property. The proposal would neither preserve nor enhance the character of the conservation area. The proposal is therefore deemed to be contrary to Policies SS10 and DE1 of the Torbay Local Plan 2012-2030.*

#### **Recommendation**

*Refusal*

#### **Reason for Referral to Development Management Committee**

*The proposal is a Major development.*

#### **Site Details**

*The site includes a large, two-storey, brick, render and tile-hung building, which is currently in use as 15 holiday units and 5-bedroom owners accommodation,*

*along with its curtilage.*

*The main building of Astoria Court has been altered and extended with a two storey flat-roofed block to the south-east corner and a two-storey, pitch-roofed 20th Century extension to the east, which is attached to the main, original building by a single-storey link block. The main building is set back by some 40m to the east of Belle Vue Road.*

*A large sandstone wall forms the western boundary of the site with a detached garage located to the south of the main entrance, which is partially attached to the boundary wall.*

*The site is within the Roundham & Paignton Harbour conservation area; an area Tree Preservation Order covers the site.*

### **Detailed Proposals**

*The application seeks permission for 5 houses and 5 apartments, with 16 car parking spaces within the application site, and associated amenity space.*

*The existing detached garage on the western boundary of the site is to be converted and extended with the addition of a pitched roof, to provide a single unit. This is illustrated on the submitted plans as unit 1.*

*The original part of the house will be divided to form 5 apartments (Units 2-6). This would involve the addition of roof-lights to the north-eastern, or principal, elevation and three small, pitch-roofed dormers to the rear, south-western elevation of the original building.*

*The two-storey, twentieth-century extension to the east would be extended to its rear with a two-storey extension of 3m in length and 8.5m in width. The height of the extension has been amended during the application process to be the same height as the existing. The proposed extension to the east would include three pitch-roofed dormers, punctuating through the eaves level. The extension would form three 2-bed houses (units 7-9).*

*The existing single-storey link is to be increased by a storey. The overall length of the extension to the east would therefore read as one attached structure to the original property measuring 16.7m in length.*

*An octagonal roof is to be added to the two storey flat roof extension to the rear of the original dwelling (to its south-west) which is to be remodelled to form a 1-bed house (Unit 10).*

*Unsympathetic windows in the existing extensions are to be replaced with windows appropriate to the character of the original property and the wider conservation area.*

There would be around 297m<sup>2</sup> of floor space demolished, with 454m<sup>2</sup> of new build. This gives a total additional floor area of 157m<sup>2</sup>.

### **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 Torquay 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**

#### **Drainage Engineer:**

Providing the surface water drainage is constructed in accordance with the submitted hydraulic design there are no objections on drainage grounds.

#### **Highways:**

No objection

#### **Historic England:**

No comment

#### **Conservation Officer:**

There are indeed some good things in this application however this does not overcome the objections to the replacement wing for later 20th century extension. It is worth repeating that under Policy SS10 we would normally be seeking the complete removal of the wing without replacement.

The reduction in ridge height of units 8 & 9 is welcome, especially against the south-east elevation gable (drwng 3841-104 B-P1). However the sheer length of the rear roof, against that of the main block (the original building) in proportion of

55:45 clearly shows this to be excessive and another argument for reducing units 7, 8, & 9 from three to two here, and probably altering the roof line between the two units.

The rear extensions to the new units 8 & 9 add nothing to the building except a new and unwelcome form; they remain aesthetically unpleasing and are particularly overbearing to bedroom two and the private amenity space of unit 2.

The windows of the original proposed gable end on the south east return were alien in form to all other windows, but we did not ask for their removal. This is welcome and simply reflects a better understanding of the obvious geometry at the point of attachment.

The scale of the redevelopment at the rear: an insistence on 3 units instead of 2. The excessive length of these three units whether viewed from the front (north-east elevation) or the rear (south-west elevation) highlights the lack of subservience of the new work to the old. These units as here proposed neither enhance the original key building nor the wider Roundham & Paignton Harbour conservation area.

**Arboricultural Officer:**

The tree protection plan defines adequate protection zones for the dominant trees on site and should be an approved document for implementation as part of any consent.

The proposed landscape plan indicates suitable shrub and lower plant proposals for the site and positions trees in suitable locations. Greater detail of planting pits, table of prescriptive watering volumes, mulching, staking and so on will be required. Also tree sizes proposed are small and should be a minimum of 12-14cm girth and of rootballed or containerised stock type. BS.8545 contains expansive details on tree planting and establishment.

*Recommendation*

That the scheme be suitable for approval on arboricultural merit however greater detail is required for the soft landscape elements as noted above.

**Police Architectural Liaison Officer:**

From a designing out crime, fear of crime and disorder perspective the Police raise no objections to the proposal

**Strategic Transport:**

No comments received.

**Summary Of Representations**

1 letter of objection has been received. Issues raised by the objectors:



- The lodge to the front of the site is out of keeping with the building line.

### **Relevant Planning History**

DE/2017/0185 - Change of Use from Holiday Units with Owners Accommodation to 9 Self Contained Residential Units; the applicant was provided with a positive response to the proposal for 9 units.

### **Key Issues/Material Considerations**

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

1. Principle of the development
2. Visual impact
3. Amenity
4. Drainage
5. Ecology and trees

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

Policy H1 of the Torbay 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. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed.

The historic use of the building is as holiday apartments with owner's accommodation. The site is located outside a Core Tourism Investment Area. Policy TO2 (Change of use of tourism accommodation and facilities) states that the change of use of holiday accommodation or facilities outside Core Tourism Investment Areas will be permitted where:

1. The holiday character of the area and range of facilities and accommodation 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; or 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 also requires 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 by the removal of unsightly features, signage, clutter and extensions relating to the holiday accommodation use. Additionally, a high priority will be given to restoring the character and appearance of buildings within conservation areas.

It is considered that the proposed conversion from holiday accommodation to

*residential would not significantly undermine the holiday character of the area or the range of holiday facilities. It is also considered that the proposal would bring other benefits, such as the provision of housing to help address the shortfall in the Council's 5 year housing land supply. The proposal has the potential to enhance the original property by restoring some of its historical character and this will be assessed in further detail later in this report. In principle, the proposed change of use is acceptable.*

## **2. Visual impact**

*Policy SS10 of the Torbay Local Plan 2012-2030 states that developments within the conservation area should preserve or enhance its character; this is in compliance with the NPPF. Indeed Paragraph 193 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.*

*Policy DE1 states that development should be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.*

*The proposal would involve amending and improving a number of unsympathetic extensions to the original building and the restoration of the period detail of the property with the porch to the entrance of the building being reinstated to its original width. The materials proposed in the external finish are in keeping with the original property. Unsympathetic windows are to be replaced with windows appropriate to the character of the original property and wider conservation area.*

*However, whilst the length of the original building is 14m, the length of the enlarged eastern extension to the east would be 16.7m. The extension would therefore be greater in length than the original property and therefore would not appear as a subservient addition.*

*The excessive width and built form associated with the enlarged extension to the east of the original building, and the two storey extension to the rear of it, would have an over-dominant impact on the character and appearance of the original building, which is designated as a key building in the conservation area.*

*Officers have attempted to find a positive solution to this by advising that the extension to the east should be reduced in scale, resulting in the development reducing from 10 units to 9. However, in this instance, the applicant has advised that they wish the development to be determined for the scheme of 10 units.*

*It should be noted that applying Policy TO2 in full would result in the requirement to remove all unsympathetic extensions to the original property, which would leave just the original building to be subdivided.*

*For the reasons mentioned above, it is considered that the proposal would result*

*in an unsympathetic addition to the original property, which would neither preserve nor enhance its original character, or the character of the wider Roundham and Paignton Harbour conservation area. As such it is deemed to be contrary to the requirements of Policies SS10, DE1 and TO2 of the Torbay Local Plan 2012-2030.*

*It is considered that the proposal would lead to 'less than substantial harm' to the significance of a designated heritage asset which would not be sufficiently outweighed by public benefits. Therefore the proposal would be contrary to Paragraph 193 of the NPPF.*

### **3. Amenity**

*Policy DE3 (Development amenity) of the Torbay Local Plan details that all development should be designed to provide a good level of amenity for future residents or occupiers and should not duly impact upon the amenity of neighbouring and surrounding uses.*

*The proposed development would have a limited impact on the amenities of occupiers of nearby properties in the area.*

*However, it is considered that the standard of accommodation for some of the proposal's occupiers would be compromised. The combination of the single storey increase to the existing link building and the additional two-storey extension to the rear of the extension to the east of the original building, would result in dominant additions in relation to Unit 2. The proposal would result in a poor outlook and lack of natural light in relation to this unit, particularly its amenity space. Moreover, the window in the side elevation of the rear extension of unit 8 would result in overlooking to unit 2 and its external amenity space.*

*There are also potential amenity issues in relation to the communal gardens to the front of unit 6 which may result in conflict with users of the garden and occupiers of the unit. However, these concerns could be overcome by securing appropriate boundary treatment and landscaping.*

*As the proposal would result in what is considered to be a poor standard of accommodation for some of the proposed units, it is considered to be contrary to Policy DE3 of the Local Plan.*

### **4. Drainage**

*As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the surface water sewer or drain must be limited to greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. It should be noted that where the greenfield run-off rate for the site is below 1.5l/sec, a discharge rate of 1.5l/sec will be accepted. The Councils Drainage*

*Engineer has confirmed that the proposed method of draining surface water run-off is acceptable. The proposal is therefore deemed to comply with Policy ER1 of the Local Plan 2012-2030.*

### **5. Ecology and trees**

*In terms of ecology, the submitted Protected Species Assessment states that no bats or breeding birds were found on the site or within the buildings. However any building works should follow the standard recommendations with regards to checking for bats prior to construction and the halting of works in proximity to any bats found should be undertaken.*

*No works involving the removal of hedges should occur during the bird nesting season.*

*With regards to trees, the Council's Arboricultural Officer has confirmed that the proposed tree protection measures are acceptable, as is the proposed shrub planting. If the application were to be approved, additional soft landscape details and the proposed protection measures would be secured by condition.*

### **Other considerations**

*The proposed parking and manoeuvring areas largely follow the existing situation, and are considered to be acceptable and comply with Policy TA3.*

*The proposal would include cycle storage and bin store areas.*

### **Neighbourhood Plan**

*The Paignton Neighbourhood Plan has recently completed its Independent Examination. Section 70(2) of the Town and Country Planning Act 1990 (as amended) provides that a local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application. The proposal broadly complies with the policies within the Paignton Neighbourhood Plan.*

### **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.

### **Local Finance Considerations**

**S106/CIL -**

**S106:**

Not applicable.

**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. If the application is deemed to be acceptable, an informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

**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.

### **Conclusions**

The proposed extension to the east of the original property, by reason of its size, siting and design, is considered to be an uncharacteristic and overly dominant addition and is deemed to be detrimental to the character of the original property and the wider conservation area. It is also considered that the proposal would result in substandard living accommodation for some of the proposal's future occupiers. As such, the proposal is considered to be contrary to Policies DE1, DE3, SS10, and TO2 of the Local Plan, and the guidance contained in the NPPF.

### **Condition(s)/Reason(s)**

01. The proposed extension to the east of the original property, by reason of its size, siting and design, is considered to be an uncharacteristic and overly-dominant addition that would be detrimental to the character of the original property and the wider conservation area. The proposal therefore fails to preserve or enhance the character and appearance of the conservation area, contrary to policies DE1, SS10, and TO2 of the Torbay Local Plan 2012-2030. The proposal would result in less than substantial harm to a heritage asset and insufficient public benefits have been demonstrated to outweigh this harm, contrary to the guidance

contained in the NPPF.

02. *The combination of the single-storey increase to the existing link building and the additional two-storey extension relating to the rear of units 8 & 9, would result in dominant additions, overlooking and loss of light to the potential future occupiers of unit 2. As such, it is considered that the proposal would not provide an adequate standard of living accommodation to some of the proposal's future occupiers, contrary to Policy DE3 of the Torbay Local Plan.*

### **Informative(s)**

01. *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/has not worked proactively and positively with the applicant to attempt to resolve the planning concerns the Council has with the application. However, in the event the applicant was unable to satisfy the key policy tests of Policies DE1, DE3, SS10, and TO2 in the submission and as such the application has been refused.*

### **Relevant Policies**

*DE1 - Design*

*DE3 - Development Amenity*

*H1 – Application for New Homes*

*H2 – Affordable Housing*

*SS11 - Sustainable Communities Strategy*

*SS10 - Conservation and Historic Environment*

*ER1 - Flood Risk*

*ER2 - Water Management*

*NC1 - Protected sites - internationally import*

*TO2 - Change of use of tourism accommodation*

*TA2 – Development Access*

*TA3 - Parking requirements*