

**Application Number**

P/2018/1283

**Site Address**Exmouth View Hotel  
St Albans Road  
Torquay  
TQ1 3LG**Case Officer**

Mr Scott Jones

**Ward**

St Marychurch

**Description**

Demolition of existing hotel and construction of twelve apartments, two townhouses, and associated car parking.

**Executive Summary**

The site is a corner plot at the junction of St Albans Road and Bedford Road close to Babbacombe Downs in an area with a mixed residential and holiday character. It holds a three-storey flat roofed hotel.

In terms of designations the site is within a Critical Drainage Area but falls outside the boundaries of the Babbacombe Downs Conservation Area and the Babbacombe Downs Core Tourism Investment Area.

The proposal is to demolish the existing hotel and redevelop the plot to provide 12 2-bed apartments and 2 houses. 14 parking spaces are proposed, 12 of which are within a rear courtyard, together with cycle and waste storage facilities.

The 12 apartments are provided over four floors in a modern-looking white rendered building with grey windows and doors under a flat parapet enclosed roof. The 2 dwellings book-end the apartment building and are a storey lower with three floors of accommodation. The dwellings are modern in design with rendered finishes to the front and back with copper cladding to the sides and roofs.

The principle of residential use and the loss of a hotel is considered acceptable when considering the location and the limited significance of the current hotel as a holiday facility. The proposal presents acceptable living environments for future occupiers and will also have a limited impact upon the amenity afforded adjacent occupiers, with some betterment to the immediate neighbours. The parking provision and highway impact is considered acceptable subject to mitigation secured by amending the parking restrictions in the area, which will require a revised Road Traffic Order. Subject to the receipt of acceptable detailed design (required prior to determination) there would be no increase in flood risk. There are no ecology constraints that constrain the ability to grant planning permission,

subject to recommended conditions.

In terms of other material considerations the provision of 14 units would provide much needed housing where there is presently a lack of a demonstrable 5 year supply. The proposal would also provide construction jobs during the build phase and future household spend would also help support local businesses. These benefits all weigh in favour of the proposal.

The proposal is considered suitable for approval when considering the Local Plan, the NPPF when taken as a whole, the post-examination version of the Torquay Neighbourhood Plan, and all other material considerations.

### **Recommendation**

Approval, subject to;

1. The receipt of surface water drainage details to the satisfaction of Officers that ensure that there will be no increased risk of flooding,
2. Highway mitigation as outlined within this report to amend parking restrictions in the immediate area, secured either through an upfront payment or S106 legal agreement, and
3. Conditions, the drafting of which is to be delegated to the Assistant Director of Planning and Transport. Draft conditions are provided at the end of this report.

The resolution of any other material matters that come to light to be delegated to the Assistant Director of Planning and Transport.

### **Statutory Determination Period**

13 weeks – 25th March 2019.

### **Site Details**

The site is a corner plot at the junction of St Albans Road and Bedford Road in Babbacombe, close to Babbacombe Downs, which holds a three-storey flat roofed hotel. The existing building is a heavily extended pair of semi-detached Victorian buildings, which is set back in the plot with extensive hardstanding to the front. The building is rendered with white modern casement windows under a flat felt roof, and hence it displays little external evidence of period character. There are three vehicular access points that interrupt a low stone boundary wall that otherwise sweeps around the plots dual frontage.

In terms of context the site sits within a Critical Drainage Area. It sits outside the Babbacombe Downs Core Tourism Investment Area which is focussed on the linear frontage along the Downs itself, and outside of the inland boundary of the

Babbacombe Downs Conservation Area.

In terms of its location the site sits close to a Local Centre (Reddenhill Road) that lies approximately 150m to the south-east and is close to a larger District Centre (St Marychurch) that lies approximately 400m to the north-west. It is also close to the Babbacombe Road which is a main distributor Road and bus route.

In terms of local character the building is in the area with a largely mixed residential and holiday character. The buildings in the area are largely Victorian with building forms that vary from tight terraces to large villas. There are also a number of redeveloped plots in the locality that hold more modern buildings, which are often on quite large footprints and between 3-4 storeys in scale.

Date of Officer Site Visit: 16.01.2019.

### **Detailed Proposals**

The proposal is to demolish the existing building and redevelop the plot to provide 12 apartments and 2 houses. These are to be provided on an L-shaped footprint that addresses the two adjacent streets, with the frontages loosely aligned with the adjacent building lines. The dwellings have one parking space each to the front and the apartments have small landscaped gardens to the front. The parking for the apartments is maintained to the rear of the building within a courtyard.

The 12 apartments are provided over four floors within a white rendered building with grey windows and doors under a flat parapet enclosed roof. The upper floor apartments have cantilevered balconies enclosed with glass and the ground floor apartments have terraces that lead to designated gardens to the front. 12 parking spaces are provided to the rear within a courtyard together with cycle storage and waste storage. Each apartment would provide 2 bedrooms.

The 2 houses book-end the apartment building and are a storey lower with three floors of accommodation. The houses have a rendered finish to the front and back with copper cladding to the side and roof. These dwellings have 1 parking space each provided to the front of each unit. There are small gardens for each unit along with a balcony at first floor. Windows and doors are grey. Each dwelling has 4 bedrooms.

Through revised plans, the apartment building has pedestrian access points at both the front and the rear.

The stone boundary wall is to be retained and reinstated where the existing central vehicular entrance is removed.

### **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

- Referendum version of the 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.

\*The Torquay Neighbourhood Plan has recently completed its Independent Examination. Full Council resolved in November 2018 that the Plan should proceed to Referendum. 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 neighbourhood plan.

### **Summary Of Consultation Responses**

#### Interim Heritage advice:

The original pair of buildings are evidently of some age however they have been altered significantly over years to an extent whereby it is now very hard to read the original buildings. The buildings have not been identified as being of any particular value in the Babbacombe Conservation Area Appraisal and are excluded from the Conservation Area boundary. The key consideration in terms of designated heritage assets is the impact upon the setting of the Conservation Area.

The proposed scheme has a good design logic and turns the street corner in a traditional manner. Whilst it is a modern building it is evident from the design statement that the design in terms of a response to the context has been carefully considered.

It is considered that the existing building could reasonably be regarded as a negative contributor to the setting of the Conservation Area, and whilst the proposed building is of a larger height it is arguably a better response to the townscape in this locality and as such overall neutral in terms of impact on the Conservation Area's setting.

Strategic Planning Team (incorporating Highway Authority comments):

The parking standards do not meet with Local Plan Policy TA3 (Appendix F) in which 2 car parking spaces and covered, secure cycle storage (2 spaces) would be provided for each of the proposed the town houses. Electrical car charging facilities should also be provided. Policy TA3 (Appendix F) seeks one car parking space per unit with a dedicated disabled space and electrical car charging facilities plus visitor parking. The proposal provides 12 car and cycle storage spaces (1:1 ratio) with an additional 4 cycle visitor spaces but no car parking provision for visitors or electrical car charging facilities.

As the development is expected to result in an increase in parking pressure in an area where demand is already very high mitigation works should be secured to try and mitigate the impact. Currently there is a summer restriction on St Albans Road which would need to be strengthened to all year to ensure there were no adverse parking impacts arising from the additional demand. Bedford Road is likely to experience similar issues of increased demand and parking arrangements close to the junction where an existing access will be blocked up will need resolving.

An amendment to the local Road Traffic Order would cost £3,000 and this should be secured to limit the impact of the development.

Drainage Engineer:

The application identifies that infiltration drainage will not be feasible at this development and is therefore proposing to discharge surface water run-off from the site at a controlled discharge rate to the combined sewer system. The proposed discharge rate of 1.5l/sec complies with the requirements of the Torbay Critical Drainage Area.

The only hydraulic calculations that have been submitted are for the design of the attenuation tank. There are no hydraulic calculations for the surface water drainage system discharging to or from the attenuation tank. These are required to confirm that there is no risk of flooding to properties on the site or any increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

It is recommended that before planning permission is granted the applicant must supply details and designs for the entire surface water drainage system for this development.

South West Water:

South West Water has no objection subject to the stated controlled discharge rate being achieved.

It is noted that a public sewer lies within the site and that no buildings will be permitted within 3 metres of it.

Police Designing out Crime Officer:

No particular concerns with regard to the design and layout of the proposed scheme. Previous comments included that the balance of parking against accommodation should be considered whether sufficient as with many new developments the subject matter of parking can be a contentious issue.

Community Safety Team:

No objection subject to a condition requiring the submission and approval of construction management plan in order to control the impact of the construction phase on adjacent occupiers.

Affordable Housing Team:

The scheme does not require affordable housing due to its scale.

Waste Team

Guidance detailing requirements for waste and recycling facilities at new or converted properties in Torbay applies. This includes guidance on the distance from the public highway to the storage point, which is 25m.

This includes the capacity of waste and recycling containers required and details with regard to collection. It would also be necessary for the developer to ensure that enough space was available in the bin store for food waste containers.

Tree and Landscape Officer

There is limited potential for landscaping but a landscape condition should be attached to ensure adequate treatment of the frontage of the development.

**Summary Of Representations**

Publication type: Neighbour notification letters/Site notice/Newspaper advertisement

37 representations have been received, all objecting to the scheme.

Key issues raised include:

Parking pressure  
Access impacts on emergency and larger vehicles  
Overlooking (towards Homecombe House)  
Loss of light (towards Homecombe House)  
Overdevelopment  
Too close to St Albans Road / visual impact  
Impact of construction on traffic flow and parking

**Relevant Planning History**

### *Pre-Planning Enquiries:*

DE/2018/0079: 14 apartments with 14 car parking spaces within a 4-5 storey building – Split decision.

### *Planning Applications:*

P/2004/2072: 14 Apartments Associated External Works and Vehicular/ Pedestrian Access (As revised by plans received 24/1/2005). Refusal by Committee for the following reasons:

*01. The loss of Hotel, which is situated in a prominent position within the Babbacombe Downs Principal Holiday Accommodation Area, would adversely affect the tourist character of the area, contrary to Policies TUS and TU6 of the Adopted Torbay Local Plan 1995-2011, and advice in PPG12 "Tourism".*

*02. In the absence of any Unilateral Undertaking/Section 106 Legal Agreement in respect of education contributions, the Local Planning Authority has no surety of achieving adequate provision in respect of this issue and would therefore be contrary to Policy CF7 of the approved Torbay Local Plan (1995-2011).*

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

The main issues for consideration relate to the principle of development, its visual impact, the quality of accommodation provided and impact on neighbours, highway and parking issues, flood risk, and ecology. These will be discussed below.

#### **1. Principle of residential development**

There are two points of principle, that of residential use and that of the loss of the hotel.

In terms of the principle of a residential use Policy H1 of the Torbay Local Plan states that proposals for new homes within the built-up area (as is the case in this instance), will be supported subject to consistency with other policies in the Local Plan. In terms of the emerging referendum version of Torquay Neighbourhood Plan Policy TS4 (Support for Brownfield and Greenfield development) states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan. In light of the broad aspirations of Policies H1 and TS4 the principle of residential use on the site is considered acceptable, subject to broader policy considerations. It is noted that the site is well located in a sustainable location that has good access to shops and other services, transport links and recreational areas, within an area that already has a residential character, which support the principle of a residential

use being acceptable.

In terms of the principle of the loss of the hotel, as the site is located outside the nearby Core Tourism Investment Area, Policy TO2 (Change of use of tourism accommodation and facilities) of the Local Plan applies. The policy 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 loss of the hotel would not significantly undermine the holiday character of the area or the range of holiday facilities, and its current significance is limited due to its scale, its relatively poor appearance, and its location away from the main frontage of the Downs. In terms of the emerging Torquay Neighbourhood Plan Policy TT1 (Change of use constraints within and outside a CTIA) states that outside of CTIAs the change of use to residential dwellings from tourism properties will be supported subject to the site being of limited significance to the tourism setting (typically 10 letting rooms or less of serviced holiday accommodation), or there is a lack of viability for tourism (including that it can be demonstrated that the current business has been marketed on realistic terms for 12 months without sale), or at least half of the units within the property are already of Class 3 residential status. As outlined above the hotel is considered of limited significance due to its scale, location and visual appeal.

For the reasons above the principle is considered acceptable as in strategic terms a residential use of the site is supported in accordance with the aspirations of Policies SS1, SS11 and SS12 of the Torbay Local Plan.

The merit of the scheme is considered to therefore hinge on whether the extent and form of development is appropriate when considering broader policy aspirations of the Local Plan, national guidance, the emerging Torquay Neighbourhood Plan, and other material considerations.

## **2. Design and visual impact, including the impact upon the setting of the adjacent Babbacombe Downs Conservation Area**

The site is located in a prominent roadside position adjacent to (but outside) the inland boundary of the Babbacombe Downs Conservation Area. Policy SS10

(Conservation and the historic environment) of the Torbay Local Plan states that all heritage assets should be conserved, proportionate to their importance. In this instance it is important to consider whether the scale and form of the proposed buildings would sit comfortably in its surrounds and would not adversely affect the setting of the Conservation Area. In addition to Policy SS10 Policy DE1 (Design) 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 local character is varied with the neighbouring streets providing a mix of tight knit terraces and large villas from the Victorian period. In addition there are some relatively substantial and heavily extended hotel buildings and some relatively large residential buildings resulting from redevelopment schemes from the last 40-50 years. As a result although the prevailing building heights are characteristically 2 storeys the local building forms vary from 2-4 storeys. Although the building will be approximately half a storey higher than the current 3-storey building, and noticeably closer to the front edge of the plot, which will present a much more imposing building on the corner, the scale is not so uncharacteristic in order to warrant concern. In terms of how it sits locally the impact of the height of the development is muted by the provision of the townhouses at either end, which at a lower three storey height begin to bridge the gap to the lower building forms adjacent.

In terms of the building arrangement the development has referenced the building lines of the two adjacent streets to present an L-Shaped corner building. Although this differs from how the current building addresses the corner the rationale is a relatively traditional and well-founded treatment and is considered a suitable design response.

In terms of the building form the development is clearly modern but it is considered to be suitably reflective in terms of how it relates to the context of the predominant Victorian buildings vernacular. The building lines are staggered to provide echoes of the period bay detailing, and the overriding balance of wall to window (solid-to-void) captures the essence of the Victorian form of buildings. The flat roof is not overly reflective of the local character but has its benefits in terms of limiting the bulk and height of the building. The townhouses display a more contemporary look with modern materials. The changing form does help break down the mass of the building, and will some visual interest. In such a locality a fresh approach to design is not a substantive concern.

In terms of the setting of the building pre-application concerns on excessive frontage parking has been positively resolved and the proposal will maintain and enhance the current stone boundary wall and provide a moderate but still positive landscape setting to the front. The proposal removes the clearly harmful extensive swathe of hardstand that is currently a negative element on the streetscene.

When taken as a whole the removal of an unattractive building and prominent hard car park setting is welcomed, and the proposal as it stands is largely well resolved in terms of its design. It is accepted that the proposed building will be more significant on the corner due to its building lines and slight increase in height, however the scale is not significantly out of context in order for there to be a substantive concern in terms of its visual impact. The limited harm does need to be weighed against the benefits of the scheme, which include the removal of the current building and car park, along with the supply of housing, temporary jobs and household spend in the area.

Due to the restricted nature of the plot and the proposal's prominence in the locality it is recommended that conditions include the approval of external materials, key design elements of the build, and that certain forms of "Permitted Development" are removed in order to secure an acceptable form of development.

As such, for the reasons above, the proposal is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, and the guidance contained in the NPPF. The development is also considered largely compliant to Policy TH8 - Established architecture of the Referendum Version of the Torquay Neighbourhood Plan, which seeks that development must be of good quality design, respect the local character in terms of height, scale and bulk; and reflect the identity of its surroundings.

### **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 unduly impact upon the amenity of neighbouring and surrounding uses.

In respect of future occupiers the internal living spaces are suitably scaled and accord with the minimum space standards outlined within Policy DE3. The units also all benefit from adequate outlook and will receive adequate levels of natural lighting to key living spaces. In regard to outdoor amenity space the apartments at ground floor level will benefit from small terraces and some assigned garden space to the front of the building. This will provide outdoor spaces that accord with the expectations outlined within Policy DE3 where apartments should, where possible, be afforded 10sqm of outdoor space either privately or as part of a larger communal offering. The upper floor apartments will however fall below the desired 10sqm as each apartment is served only by a single balcony of around 5sqm. Similarly the two townhouses are to be provided with outdoor amenity space below the desired level of 55sqm for houses, with usable private gardens of 20sqm and 28sqm, and a small balcony each. However when considering the development sits within 50m of Babbacombe Downs, which is a well maintained and highly valued public greenspace, it is considered reasonable to accept some flexibility in terms of the outdoor amenity space standards, as future occupiers will be afforded

some outdoor space and will have a high quality public space almost immediately adjacent to them. In terms of the broader residential elements, the occupiers will be provided with on-site parking, and designated cycle storage and waste storage for the apartments. These facilities complete what is considered an adequate residential environment for future occupiers.

In respect of neighbouring amenity, the immediate occupiers to either side of the plot are likely to see an improvement in terms of amenity. The current building is set to the rear of the plot which presents a large building mass in close proximity, which also has a number of upper floor windows with views across into the neighbouring plots. The removal of the current building will improve outlook and access to natural light, and also improve privacy for these occupiers. In its place the development will present a building mass to the front of the plot, which will be less impacting on these immediate neighbours, and there will be no openings on the side elevations of the townhouses, which will protect privacy.

The rear elevations of the development will present some overlooking of plots but the impact will be less than the current situation due to the distances involved. Officers feel that there is an improved relationship for these neighbours. More widely, the impact across the public frontages is considered limited in terms of amenity. Across Bedford Road the Morningside Hotel presents some windows within its side/rear elevation, however the arrangement is not considered any more harmful than what is already experienced within the wider street. With the slight recess of the building line the distance across the street is actually slightly greater than what is found adjacent.

Across St Albans Road sits Homecombe House, a large complex of retirement flats. Concern is expressed in representations about the potential impacts upon privacy from overlooking, and from loss of light, from the development. The proposed development will present a building separation, across a public road of approximately 27m. This distance is considered more than sufficient to maintain adequate levels of amenity. The perceived level of overlooking will hopefully be diminished by the fact that Homecombe House presents a tree-lined border with St Albans Road, which will help screen the development from occupiers. Given its siting, scale, and design, it is considered that the proposed development would have an acceptable impact on the amenities of neighbouring occupiers.

Due to the restricted nature of the plot and the proposed layout it is recommended that conditions include no use of flat roofs for recreational purposes in order to limit potential overlooking and that "Permitted Development" for the two houses to extend or build outbuildings is removed in order to secure an acceptable form of development for future occupiers by ensuring that the limited amenity space is not unduly reduced further.

To conclude, the proposed residential environment would appear adequate and the development would not unduly impact the level of amenity afforded

neighbouring occupiers, which presents development that accords with Policies DE1 and DE3 of the Torbay Local Plan.

#### **4. Highways, Movement and Parking**

The development proposes 12 apartments with 12 parking spaces within a rear parking courtyard, and 2 houses each with one parking space to the front of each dwelling.

Policy TA3 and Appendix F of the Torbay Local Plan provides key policy guidance for residential developments. Houses have an expected requirement of 2 spaces per dwelling and apartments have an expectation of 1 space each, with some degree of visitor parking. There is also an appreciation that these standards can be reduced in more accessible and well-connected locations such as town centres. There is further advice on the provision of disabled parking and electric charging points.

The level of parking does not meet the parking expectations as the dwellings do not benefit from 2 parking spaces, and there are no visitor spaces to support the apartment block. Although the expected level of visitor parking is not defined within the Local Plan for the scale of development proposed 2-3 visitor spaces would appear a reasonable provision.

As the site is constrained there is no obvious solution to increase the level of parking to a policy compliant position. The frontage is largely free of parking, as recommended through pre-application discussions, and the reintroduction of parking in such a location would present demonstrable visual harm and would also be likely to result in access issues when considering the current street parking. In the absence of an obvious solution the local context should be considered in order to determine the acceptability of the proposal on highway grounds.

In terms of the local context, although it is not a town centre site, it is located within easy access of 2 shopping areas (one Local Centre and one District Centre) and is adjacent to Babbacombe Road, which is a major distributor road and bus route. This weighs in favour of accepting some flexibility in terms of parking provision. However, as the site is in a mixed residential and holiday area, where some streets are formed with terraces with little parking, there is clearly already a high demand for street parking in the area. This does not weigh in favour of accepting flexibility in terms of parking provision. Highway colleagues have raised the lack of a policy compliant parking provision as a concern in this location.

Having assessed the site and surroundings it is considered that the impact of additional parking pressure from the slight shortfall in a policy compliant position could largely be mitigated by alterations to the parking restrictions in the area. It is principally proposed that the seasonal parking restriction on St Albans Road should be amended to a year-round restriction, and that the parking arrangement

around the junction with Bedford Road should be reconsidered where a current access is to be blocked up. This mitigation could be secured by a payment of £3000 to fund Road Traffic Order amendments. It is noted that the Police have raised a concern on the level of parking.

In order to secure an acceptable form of development conditions are proposed to secure the provision and retention of parking facilities prior to first occupation and the provision of the communal cycle store.

With due regard of design constraints and likely visual impact of additional parking, and considering the concerns raised by the Highway Authority and the Police Designing Out Crime Officer, the proposed level of parking, which provides some form (1:1) of designated on-plot parking for all residences, is considered acceptable on highway safety and movement grounds, subject to securing the mitigation outlined above to ameliorate the likely impact on street parking demand in the area post-development. If secured the proposal is considered suitable for approval when considering the aims and objectives of Policies DE1, DE3, TA2 and TA3 of the Torbay Local Plan.

The above consideration has been made with due regard for the guidance outlined within the NPPF, which guides (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

## **5. Drainage and flood risk**

As Torbay is within a Critical Drainage Area the application needs to demonstrate that the surface water drainage design would not result in any increased risk of flooding to properties or land adjacent (for the critical 1 in 100 year storm event plus 40% for climate change) and the Local Plan Policy outlines a hierarchy.

It is accepted that infiltration drainage will not be feasible. In such a circumstance attenuated and controlled discharge into the Public Sewer is an acceptable concept to follow. However the developer has failed to show that a discharge to the Public Sewer can be achieved without increase to the risk of flooding to land or buildings adjacent. Certainty is required on this prior to the grant of consent.

It is noted that South west Water has no objection subject to the discharge being attenuated to a rate to be agreed and that buildings are not located within 3m of a Public Sewer.

Subject to the receipt of the additional design detail requested that shows that surface water can be attenuated and discharged at an acceptable rate the proposal is considered compliant with Policies ER1 and ER2 of the Torbay Local Plan. These details should be secured prior to the grant of planning permission.

## **6. Ecology**

There are no major ecological constraints.

Although the site has the potential to support nesting birds no evidence was found and in terms of bats the site has a low roosting potential.

The accompanying ecology assessment proposes only precautionary measures are necessary to afford due diligence for protected species. It is recommended that ecology impacts can be duly managed by way of planning conditions in-line with the recommendations of the submitted ecology report.

Although there is little potential for enhancement of this urban development in relation to biodiversity, the inclusion of integrated habitat for birds, bats and bees could be considered by way of condition to support the NPPF guidelines to achieve biodiversity enhancement.

As there appears no constraint and with opportunity to respond to policy aspirations by way of detailed design elements the scheme accords with Policies NC1 of the Torbay Local Plan.

## **7. Other Considerations**

### **5 year housing supply**

The Council has between around 3.8- 4.5 years' housing supply based on an assessment completed in December 2018.

Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay, or the granting of permission where there are no relevant development plan policies or where the most important policies are out-of-date. A lack of a demonstrable 5 year housing supply principally renders the most relevant policies of an otherwise up-to-date development plan out-of-date.

In such circumstances, permission can only be refused (according to the NPPF) according to two tests-

- 1) There are specific policies in the NPPF that provide a clear reason for refusal, or
- 2) The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (when assessed against the Framework as a whole)

This presumption in favour of development is often referred to as the 'tilted balance'.

It must be remembered that whilst the NPPF is a material consideration, it has no power to supersede an adopted development plan. However it does set out clearly that decision makers must give significant weight to housing supply considerations.

The benefits of the scheme are relevant as a material consideration and the provision of 14 homes would in some way help address the lack of a 5 year housing supply and the public benefit of this should be afforded due weight in the decision making process.

### **Torquay Neighbourhood Plan**

The Torquay 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 has been considered aside the relevant policies and is largely considered compliant with the policy aspirations of the post examination version of the Torquay Neighbourhood Plan. It should be noted that, prior to its formal adoption following a positive referendum result, the weight to be afforded to the Neighbourhood Plan is less than that to be afforded to the adopted Local Plan.

### **S106/CIL and Affordable Housing -**

#### Affordable Housing:

Affordable housing provision/contribution is not required from this development in accordance with Policy H2 of the Torbay Local Plan 2012-2030 as for a scheme of 14 dwellings within a brownfield context Local plan Policy H2 affordable housing is not required

#### S106:

#### *Sustainable Development Obligations:*

Sustainable Development S106 contributions are not required from this development in accordance with Policy SS5/SS6/SS7/SS9/SS11/H2/Planning Contribution and Affordable Housing SPD.

#### *Site Acceptability Measures:*

Highway works: Amendment to the local Road Traffic Order, at a cost of £3,000,

should be secured to limit the impact of the development, in-line with Policy DE1, DE3 and TA3 of the Torbay Local Plan and Planning Contribution and Affordable Housing SPD.

#### CIL:

The application is for residential development in Zone 2 where the Community Infrastructure Levy (CIL) is £70 per square metre of additional gross internal floor area created.

#### **EIA/HRA**

##### **EIA:**

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

##### **HRA:**

The application site is not within a strategic flyway/sustenance zone associated with the South Hams SAC. The proposed development is unlikely to have a significant effect on the South Hams SAC.

The development is not immediately adjacent to the undeveloped coast and the proposal is unlikely to have a significant effect on the Lyme Bay and Torbay SAC.

#### **Human Rights and Equalities Issues -**

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

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

## **Proactive Working**

In accordance with paragraph 38 of the National Planning Policy Framework the Council works in a positive and pro-active way with Applicants and looks for solutions to enable the grant of planning permission. The applicant has broadly responded to concerns raised at pre-app stage and has provided improved cycle storage, a front entrance, and additional detail on access levels during the course of the application.

## **Conclusions**

Subject to resolving outstanding matters in terms of the drainage design and site acceptability highway mitigation (to secure amendments to existing Road Traffic Orders), the scheme is considered acceptable for the reasons outlined within this report.

In line with the NPPF proposals that accord with an up-to-date development plan should be approved without delay.

The acceptability of the scheme is considered to be strengthened by the Council's current lack of a demonstrable 5 year housing supply. In such circumstances the NPPF guides that permission can only be refused (according to the NPPF) according to two tests-

- 1) There are specific policies in the NPPF that provide a clear reason for refusal, or
- 2) The adverse impacts of granting permission would significantly and demonstrably outweigh the benefits (when assessed against the Framework as a whole).

Should the outstanding matters be resolved, any adverse impacts are considered minor and would not demonstrably outweigh the benefits of the proposal, which include helping meet a housing need, construction jobs and the broad economic support for local business from future household spend. It is recommended that planning permission be granted subject to the completion of a legal agreement and the conditions outlined below.

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

### **CMS**

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

### **Landscaping**

No development (excluding demolition) 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 six 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 Policy DE1 of the Adopted Torbay Local Plan 2012-2030.

### **Ecology recommendation 1**

All demolition and/or the removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged, in-line with the submitted Bat and Protected Species Survey (Eco Logic: October 2018)

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

### **Ecology recommendation 2**

Prior to demotion contractors will be made aware of the potential for roosting bats in-line with the submitted Bat and Protected Species Survey (Eco Logic: October 2018). If during demolition roosting bats are found all associated works to the building shall immediately stop and a suitably qualified ecologist shall be contacted for further advice.

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

### **Ecology recommendation 3**

Prior to first occupation 2 bat boxes, 2 nesting terraces, and 2 bee bricks shall be implemented within the build in-line with the submitted Bat and Protected Species Survey (Eco Logic: October 2018)

Reason: To secure biodiversity enhancements in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and the NPPF.

### **Parking provision**

The dwellings and apartments hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring areas as approved 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.

### **Materials**

Prior to the commencement of development above damp proof course level (excluding demolition) samples of all external materials (either digital or physical) 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.

### **Boundary Treatment**

Prior to the commencement of development above damp proof course level (excluding demolition) details of all boundary treatments and means of enclosures, including all retaining structures, 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.

### **Cycle provision**

Prior to the first occupation of the apartment building hereby permitted the cycle store, as detailed within the approved plans, shall be completed and made available for the purpose of cycle storage to serve the development. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Adopted Torbay Local Plan 2012-2030.

### **Waste provision**

Prior to the first occupation of the apartment building hereby permitted the waste and recycling storage facility, as detailed within the approved plans, shall be completed and made available for the purposes of waste storage to serve the development. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and W1 of the Adopted Torbay Local Plan 2012-2030.

### **Drainage**

The development shall not be occupied until the surface water drainage system detailed on plans hereby approved has 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.

### **S278**

Prior the commencement of development above damp proof course level (excluding demolition) a S278 Agreement, or other appropriate highway licence agreement, to secure works to raise the kerb adjacent to the closed entrance prior to the first occupation of the development and secure necessary access points as shown on the plans hereby approved, shall be secured. The development shall proceed in full accordance with the agreement(s).

Reason: To secure the necessary works to the highway and a satisfactory form of development, on accordance with Policies DE1, TA2 and TA3 of the Adopted

Torbay Local Plan 2012-2030.

## **PD**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 (or any Order revoking or revising that Order) the following forms of development are not permitted, 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;

- No additional means of enclosures,
- No additional hardstandings,
- No additional extensions or outbuildings.

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development and outdoor amenity spaces within a restricted site, in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

## **Detailed design**

Prior to the commencement of development above damp proof course level (excluding demolition) details of reveals, fascias, parapets, cills, windows, doors and balconies shall be submitted to and approved in writing by the Local Planning Authority.

Reasons: In order to protect visual amenity in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

## **Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS3 - Presumption in favour of sustainable dev  
SS8 - Natural Environment  
SS10 - Conservation and Historic Environment  
SS11 - Sustainable Communities Strategy  
SS12 - Housing  
SS13 - Five Year Housing Land Supply  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1LFS - Applications for new homes\_  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ER2 - Water Management  
W1 - Waste management facilities

NC1 – Biodiversity and geodiversity