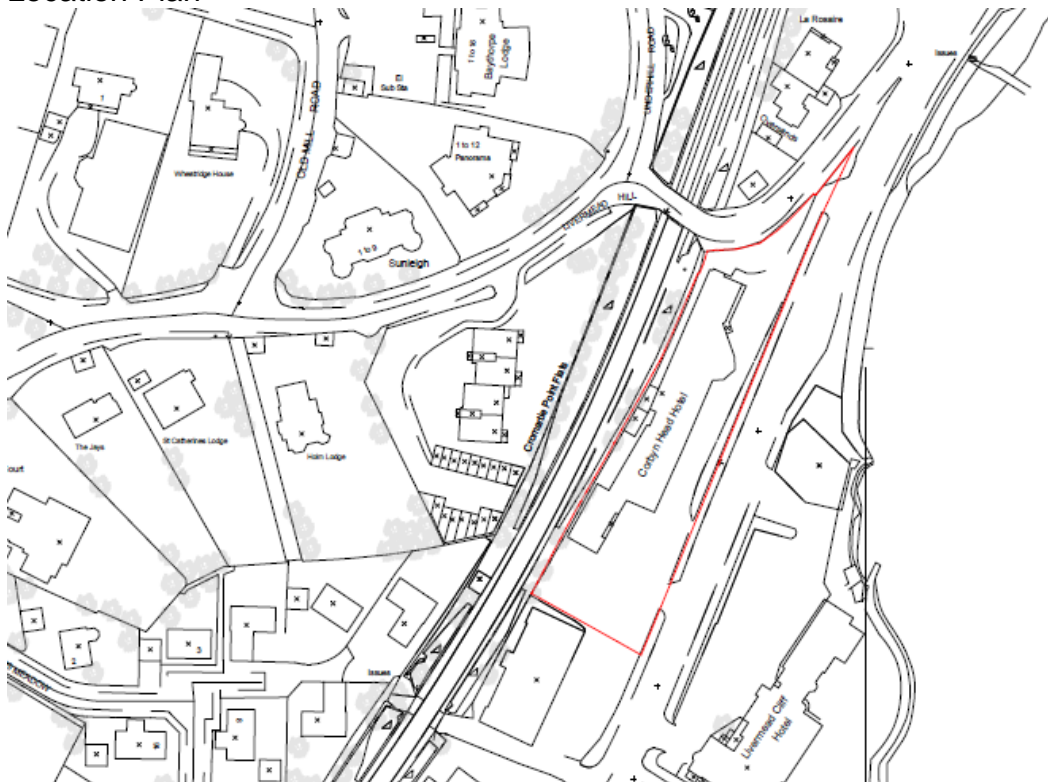




Application Site Address	Corbyn Head Hotel, Torbay Road, Torquay, TQ2 6RG
Proposal	Demolition of existing hotel and formation of new hotel with ancillary facilities.
Application Number	P/2019/0699
Applicant	Fragrance UK - Torquay 2 Limited
Agent	Kay Elliott Architects
Date Application Valid	05.07.2019
Decision Due date	04.10.2019
Recommendation	That planning permission be granted subject to the completion of a legal agreement to secure financial contributions towards sustainable transport and local parking restrictions, and compliance with the conditions detailed at the end of this report. The final drafting and addition of conditions, along with the negotiation and completion of the legal agreement, to be delegated to the Assistant Director for Planning and Transport.
Reason for Referral to Committee	Major application
Planning Case Officer	Robert Brigden

Location Plan –



## **Site Details**

The site is a broadly rectangular area of land measuring around 3300sqm in area, comprising land occupied by the Corbyn Head Hotel, and situated along the western side of Torbay Road in Torquay. The site is located approximately 1.2 miles (2km) to the south-west of Torquay town centre; 1.9 mile (3km) to the north-east of Paignton town centre; half a mile (800m, or a 10 minute walk) from Torquay railway station; and 0.8 miles (1.3km) from the Riviera International Centre and Abbey Sands development (formerly Palm Court). The site is located within the Core Tourism Investment Area and within Flood Zones 2 and 3.

The site's south-eastern boundary runs alongside Torbay Road; the northern end of the site adjoins Livermead Hill; the north-western boundary runs alongside the railway; whilst the southern end of the site lies adjacent to the Corbyn Apartments, which are in use as holiday lets and dwellings. Ground levels generally rise up steeply to the west beyond the railway line and behind the existing hotel.

The existing building is a standalone structure, which is two to three storeys in height and is set within a curtilage area mostly comprised of a car park. The building fronts onto Torbay Road, and the site has two vehicular access points onto the public highway.

The locality is characterised by a range of building types including hotel buildings, apartment blocks, and houses. The neighbouring Corbyn Apartments is a four storey building with a mansard roof; to the west, and located on the hillside beyond the railway line, is the Cromartie Point Flats building, which is four storeys in height, and there are various other, similarly sized apartment buildings around the same location, off Livermead Hill. The three-storey Livermead Cliff Hotel is located on lower ground to the south-east.

The railway line, which runs alongside the site is classed as a County Wildlife Site.

## **Detailed Proposals**

The application proposes the demolition of the existing, 45-guestroom hotel, and its replacement with a new, purpose-built 152-guestroom hotel with associated leisure facilities, including a spa, roof-top bar, and a restaurant. Sandstone walls and landscaping would be introduced along the road frontage. An outdoor terrace area would be created at ground-floor level to the front of the building and at the northern end of the site, with pedestrian access to the public highway. An outdoor terrace area would also be provided at the fourth-floor level, at the northern end of the building, in association with the roof-top bar.

The proposed hotel would be of a modern design, incorporating a mix of glazing, white brick, black/blue brick, zinc cladding, and coloured panels across a horizontally patterned fenestration. The building would be up to 6 storeys tall at its highest point above ground level. The proposal would range from four storeys at

its southern end, to six storeys in height at its northern end, above ground level, however, a sub-surface car park would also be provided at the building's southern end. The building would measure between approximately 14.5m (around 22.5m AOD) in height from the road level at the southern end of the building, just under 20m (around 28m AOD) from road level at the northern end of the building. The mid-section of the building would be around 19m (27m AOD) in height from road level. This compares to around 12m (around 20m AOD) in relation to the existing building. The proposed building would be tallest at its northern end and would step down towards its southern end. The footprint of the building would measure approximately 104m in length, and would have an average depth of around 17m. The footprint of the building would measure 1657sqm, which compares to 1089sqm in relation to the existing building.

The proposed building would provide 9,152sqm of accommodation, most of which would be given over to the guestrooms and associated elements, along with the car parking areas. The following would also be included: roof-top bar (193sqm), roof-top terrace (127sqm), restaurant and kitchen (369sqm), ground-floor terrace (193sqm), and spa-related facilities (~120sqm). The proposed guestrooms typically measure around 24.5sqm in area, although there are larger, 'accessible' rooms approximately 30sqm in area.

The seven levels would comprise the following elements:

- A lower, under-croft car park at the southern end of the building, which would be accessed by a ramp. A small basement containing plant and a tank would sit just below the level of the under-croft car park.
- The lower ground-floor, comprising two areas of undercover car parking, along with a reception, staff facilities, and other services. The reception would be accessed from an area of outdoor parking, to and from which access to the public highway would be taken.
- The ground-floor level would comprise guest rooms at the southern end of the building, and a lounge area, kitchen, eating and drinking facilities at the northern end, which would have access onto the outdoor terrace, located above part of the lower ground-floor. A delivery reception area, accessed from Livermead Hill, would also be located at this level.
- The first, second, and third floors would mostly contain guest bedrooms, along with some associated facilities. The third and fourth floors would see the introduction of flat roofed areas at the southern end of the building.
- The fourth floor, which would mostly be located along the northern half of the building would comprise a spa, roof-top bar, outdoor terrace, other hotel-related services, and plant.

A new vehicular exit point would be created on to Torbay Road. The more northern of the two existing access points would be closed off and stopped up. The existing, more southern, access would be retained and widened for use as an entrance to the site. The proposal would include 101 car parking spaces in total, equating to 2

spaces per 3 guestrooms, along with a temporary coach drop-off area capable of accommodating two coaches. A loading bay for deliveries would be provided along Livermead Hill, with access into the northern end of the building at the ground-floor level. Improved pedestrian access along Torbay Road would also be provided. The development would also include the introduction of new boundary treatment and landscaping features.

*Summary of Changes Compared to the Previous Scheme (P/2018/1096/MPA):*

- Reduction in the overall height of the building by 1m, amounting to a 1565m<sup>3</sup> (5.4%) reduction in the volume of the building;
- Reduction in the area of the top floor by around 30sqm, bringing that element of the structure further into the roof at its northern end, by between 1m and 1.8m;
- Revised coach drop off/collection arrangements which no longer require the reservation of parking spaces;
- Additional information to confirm that a right-hand filter lane would not be required along Torbay Road;
- An enlarged loading bay to be located along Livermead Hill, with additional information demonstrating an ability to accommodate delivery vehicles
- Confirmation that the bar, restaurant, and spa will be for hotel guests only;
- A commitment to provide a valet parking service to an off-site location, for hotel guests, should the on-site car park be at full capacity;
- A commitment to provide a staff minibus service and to prevent staff parking at the site;
- Clarification regarding the number of electric vehicle charging points to be provided.

**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 Torbay Local Plan 2012-2030 ("The Local Plan")
- Torquay Neighbourhood Plan

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)

- Published standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

### **Relevant Planning History**

P/2018/1086/MPA - Demolition of existing hotel & formation of new hotel with ancillary facilities. Refused by Planning Committee on 10<sup>th</sup> June 2019, for the following reasons:

1. *The level of on-site car parking provision proposed would result in an unacceptable level of off-site car parking demand to the detriment of highway safety. The proposal is therefore contrary to the requirements of policy TA3 of the Torbay Local Plan.*
2. *The proposed design by virtue of its height, massing and bulk would be out of keeping with the character of the immediate locality. The proposal is therefore contrary to Policy TH8 of the Torquay Neighbourhood Plan and Policy DE1 of the Torbay Local Plan.*

### **Design Review Panel (Pre-application DE/2018/0030)**

05.04.2018

*The long thin site has a very fine prospect (outlook) to the front and the railway line to the rear – this contrast ought to find inflection in the building design.*

*The scale of the building in relation to local context seems to be appropriate. In our site visit, we also anticipated the impact of the building when viewed back from Torquay Harbour area and again did not see in principle any difficulties in redevelopment at the scale proposed. Materials specification strategies and the play of light and shade on any modelling of the façade will need further consideration and, we would expect, to be tested with accurate CGI renderings.*

*The vehicular access and servicing of the site, given its proportions and the ‘tightness’ of the site, is challenging.*

*The north-eastern end of the site forming a ‘prow’ in between the two vehicular routes needs and deserves particular attention – it will be a very powerful and prominent end of the building.*

*The Initial Design Approach*

*The bold sweep of the proposed building is supported, whilst the use of two different materials for the two halves of the hotel is understood as a means of relating the scale more closely to the context, we would have been interested to see the building tested as a more singular, consistent proposition – still gaining height towards the north-eastern end – but not so evidently sub-divided. This option ought to be explored. Clearly the massing relates to the location of the internal vertical circulation cores and we wonder if there isn't an opportunity for a final 'flourish' at the north-eastern end? We welcome retaining a view corridor on the western side of the site.*

*The idea that the form is conceived to have a heavier 'rear' bank of rooms (overlooking the railway) and a lighter 'front' bank of rooms seems to make great sense. We would encourage a far bolder horizontally emphasised aesthetic for the front bank, stretching/sweeping along the site, parallel (or almost parallel) to the main road. The semi-circular finale of this form at the north-east end seemed very appropriate.*

*By locating the vehicular entrance in the centre of the plot and allowing drop off at the main building entrance here, it is difficult to make this entry condition attractive for pedestrians. The character will be dominated by the necessary design and detailing for vehicles. The use of this same arrangement for receiving coaches was not quite possible for us to understand, but presumably there have been vehicular tracking assessments that show this to be possible. Whilst all may be proven to 'work', we are left wondering if the result will be sufficiently elegant as an experience for guests, and therefore some time spent exploring some alternative options / parking formats would be recommended. It is also difficult, visually, where the mezzanine level of parking pushes forward in front of the building line established by the rooms above – this will ensure that this part of the site will appear to be overwhelmed with vehicles. The edge of the mezzanine needs to be held back and the edge detailing of the balustrade to the deck needs careful thought – the current stone cladding seems incongruous.*

*We are concerned about the new edge being formed to the main road – a coherent idea needs to be established that retains a characteristic stone boundary to the site and we might expect that a 2 – 3 metre planting zone as part of the landscape design (both in front of the parking areas and above the semi-subterranean spa element). This planting should be luxuriant and bold and, if possible, space should be found for some larger trees (especially at the southern end).*

*The route into the building and up to the main reception level needs to be elegant and more intuitive than we currently detect. Consider opening out double-volumes to allow direct eye contact between the reception desk and the entrance doors below. The main staircase could be tested in alternative configurations and locations in the plan – perhaps the final ascension and arrival on the main level should consider the potential for sea views, straight ahead?*

*If a little more height could be gained on the north eastern end of the building then a rooftop bar / restaurant spilling out onto the adjacent flat roof would be incredibly attractive and benefit from good orientation and excellent views. Rooftop plant might also be elegantly incorporated within the same structure?*

*We see that the internal organisation of the plan is tight, but we regret how the public function rooms push forward of the building line above – this needs further exploration and ideally we believe a flush relationship should be aimed for. Whilst the presence of the railway is not a significant difficulty, we wonder whether some form of visual screening or softening (perhaps by means of planting) is worth considering to improve views from overlooking properties to the rear of the building?*

*Night-time (illuminated) appearance and handling of signage will be key considerations as part of the overall aesthetic being aimed for.*

#### *The More 'Developed' Version of the Design*

*In your additional development and analysis you explored options to break down the form and massing further – but we do not see any great merit in this – surely the building needs to be confidently and honestly, primarily a horizontal composition? Whilst the north-eastern end is clearly the dominant one, there may be some merit in adjusting the position of the south-western stair core in order to allow this end of the building to be more flexible in how it presents to the approach along the main road?*

*In further discussing and considering the strategy for accommodating car-parking there seemed to be an option to excavate to a greater extent under the north-eastern half of the building and thereby relieve pressure elsewhere (arrival/entrance area and external landscape spaces?). This approach would certainly be supported.*

*The variegated architectural language which accompanies the breaking up of the mass seems particularly retrograde as a design tactic and hope that this can be avoided.*

*We encourage the development of a sustainability strategy for the project and this we hope might have a natural influence over the design of the facades and their passive environmental performance. The panels of bright colour indicated on the images seem rather forced and more subtle/useful tactics for introducing irregularity within the elevation might be explored. We are surprised that balconies do not seem to be part of the client brief in this location.*

#### *Concluding Remarks*

*Our main concerns are to do with accommodating the arrival and presence of*

*vehicles on the site – options ought to be explored before confirming the strategy. We urge that the formal design is bold and uncompromised – there are clear precedents of good contemporary and modern design nearby which are confident in expressing their basic building anatomy.*

11.06.2018

#### *Design Issues deserving some further attention*

*We are pleased to see the new treatment of the northern end of the project, where we were calling for a bolder 'prow' in this prominent position. The design is more confidently handled in this respect but we noted a dis-satisfying 'duality' emerging between the front and rear components of the building as they presented in this end elevation. We think that options ought to be drawn / tested that examine the effect of a little greater height to one or the other, and the possible exploration of some alternative detailed strategies for dealing with the articulation of the joint where they meet. Once the compositional principles have been established then it would be good to transfer and repeat these on the simpler southern end of the building.*

*We are still disappointed to see the weakness of the main arrival stair up to reception. A 90 degree dog-leg is a fairly inelegant type and we feel that the movement of guests at this key moment of arrival needs to be gracefully choreographed by the optimum placement and configuration of the important staircase. The opportunity of exploiting good views out to sea as a key part of this pattern of movement should be seized.*

*The bold horizontal lines of the building are successful and only broken by the central vertical gap – making the detailed handling of this gap crucial. We debated whether or not vertical or horizontal glazing bars ought to be deployed – we think options for both ought to be tested.*

*We were much more certain that the 'additional' room which had been placed within this elevational zone of the building was a mistaken idea and this needs addressing – either by re-planning to remove the room from this location, or by reducing the width of the gap to merely denote the common parts (although we have doubts about the aesthetic impact of this latter strategy).*

*The rear elevation (facing the railway) is bound to be more of a challenge to maintain and we firmly recommend considering a finish / construction that is low or zero maintenance to ensure graceful aging of the appearance.*

#### *Concluding Remarks*

*We believe that the points raised above can be relatively easily addressed and we are pleased to offer our support for this project. It should provide an exciting,*



*handsome and positive addition to this part of the seafront.*

## **Summary of Consultation Responses**

### **South West Water:**

*No objections subject to surface water being disposed of in accordance with the surface water drainage strategy.*

### **Network Rail:**

*No objections; conditions and informatives requested.*

### **Police Designing-Out Crime Officer:**

*Hotels create a regular turnover of visitors who are likely to have a reduced level of ownership and responsibility for their surroundings, due to their temporary status, but this can make them and their property vulnerable to crime due to a relaxed approach to security. Therefore life should be made as difficult as possible to prevent those with criminal intent gaining access into the hotel and private areas by considering the following attributes of Crime Prevention through Environmental Design (CPTED) and the associated advice and recommendations, as this will assist in ensuring that there is a consistent level of security throughout and opportunity for crime, fear of crime and disorder are minimised:-*

*Access and Movement - Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security*

*There are no particular issues with regard to the internal design of the hotel but to increase safety and security for guests and staff there should be some form of internal access control system throughout to reduce unwanted human movement, especially to each floor of accommodation and to staff areas.*

*Structure & Ownership - Places that are structured so that different uses do not cause conflict*

*Surveillance - Places where all publicly accessible spaces are overlooked; have a purpose and are well managed to prevent the creation of vulnerable areas which could attract criminal activity, the antisocial to gather or for unacceptable behaviour to go unnoticed.*

- *The reception is well positioned, maximising views out and will enable passive surveillance over those entering and leaving the building*
- *Any external service doors should be designed so they are fitted flush to the building line wherever possible to prevent creating recessed or concealed areas*

- *The lighting scheme should be to the relevant levels as defined in BS 5489:2013 and provided by 'on building' or pole mounted solutions wherever possible. To assist, bollard lighting and low level lighting work well for demarcation of routes or as supplementary lighting but they are not recommended from a safety and security perspective as the limited light they do emit is generally at the wrong height to aid facial recognition.*

*A monitored CCTV system should be carefully considered.*

*CCTV cameras should be distributed throughout the building and external areas with a clear passport for compliance document, previously known as an Operational Requirement, in place prior to installation to ensure the system is fit for purpose. Coverage over access controlled areas, entry and exit points, bike and bin stores, underground parking and parking areas in general and walkways etc. are of particular importance.*

*CCTV should be designed to co-ordinate with external lighting and landscaping. The CCTV must have a recording format that is acceptable to the Police. Recorded images must be of evidential quality if intended to be used for prosecution.*

#### *Physical Security*

*Places that include necessary, well-designed security features as laid out in Secured by Design (SBD) guidance Commercial 2015 & Homes 2016*

- *All external doors and accessible windows should be sourced as tested and certificated products*
- *Ideally all entrance doors to guest rooms should meet PAS 24 2016 standard of security – For further advice on police preferred enhanced security standards please do not hesitate to contact me.*
- *Restricted opening of any ground floor windows (if applicable) should be adopted to prevent reach in burglaries (where offenders simply take whatever is within reach through the open window).*

#### *Activity*

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

- *Licensing will of course deal with any concerns with regard to the use of outside areas when a licensing application is made*

#### *Parking*

*The proposed on-site parking provision seems wholly inadequate which is a concern to the police. It is respectfully requested that the overall number of parking spaces is carefully considered by the planning authority prior to determination to ensure that it is deemed adequate when balanced against the number of guest rooms, staff numbers and visitors to the public bar and spa, especially given the lack of any other alternative nearby off-site parking option. The police are concerned that this could lead to rancour amongst existing residents due to parking*

*related problems such as inconsiderate or obstructive parking and the likelihood of an increase in complaints to the police.*

*The underground/under-croft parking is noted but the preferred advice would be not to construct buildings on top of parking areas but where unavoidable then please note the following recommended protective security measures:-*

*Project ARGUS Professional is aimed at encouraging architects, designers and planners to consider counter terrorism protective security measures within the built environment at the concept design stage. It encourages debate and demonstrates that counter terrorism measures can be designed into structures and spaces to create safer crowded places. It is fully supported by the various organisations associated with these professions.*

*Whilst it is not directly linked to the planning process all staff should receive counter terrorism awareness briefings such as the afore mentioned Project Argus or Project Griffin to improve staff awareness and resilience of the site.*

*An access control system must be applied to all vehicular and pedestrian entrances to prevent unauthorised access in to the parking area.*

*Lighting must be at the levels recommended by BS 5489:2013*

*The parking area, pedestrian walkways and external doors and windows must be covered by a monitored CCTV system*

*Walls and ceilings should have light colour finishes to maximise the effectiveness of lighting as this will reduce the luminaires required to achieve an acceptable light level and assist the functions of the CCTV*

*Ideally the parking facilities should incorporate the physical and management measures required by the Safer Parking – Park Mark award scheme as detailed on the Secured by Design website. Park Mark is awarded to parking facilities that have met the requirements of a risk assessment conducted by the police. These requirements mean that the parking operator has put in place measures that can help deter criminal activity and anti-social behaviour. The scheme is managed by the British Parking Association.*

**Natural England:** No objections.

**Habitats Regulations Assessment Advisor:**

*Considering the proposed mitigation measures, there would be no adverse effect on the Integrity of the Lyme Bay and Torbay Marine Special Area of Conservation, either alone or in combination with other proposals or projects.*

**Structural Engineer:**

*No objections; condition recommended seeking measures to prevent damage to the highway along Livermead Hill during demolition and construction works.*

**Highways:**

*No objections; see Strategic Transport comments.*

**Strategic Transport:**

*Comments have been received, which are in addition to those made in relation to the previous application. No objections raised; planning obligations and conditions recommended (see Section 7 below).*

**Community Safety:**

*No objections; conditions requested to secure details of and/or control kitchen extractor equipment and roof-top plant, including noise emissions; controls in relation to the use of the roof-top bar and terrace; and a demolition and construction management plan.*

**Arboricultural Officer:**

*No objections subject to the use of a condition to secure a detailed landscaping scheme.*

**Drainage:**

*No objections subject to surface water drainage arrangements being provided in accordance with the submitted details.*

**Environment Agency:**

*From the development and flood risk perspective we hold no in principle objection but we make the following informative comment.*

*The far eastern part of the site lies on the fringe of an area at risk of flooding from wave overtopping and spray. Increases in sea levels, and storminess, due to the effects of climate change, are predicted to result in an increase in the occurrences of such.*

**Torbay Development Agency:**

*The new hotel will support the development of the visitor economy, currently worth £430m, attracting 4.6m visitors a year. The proposed investment aligns to the ambitions of the English Riviera's Destination Management Plan 2017-2021 specifically:*

- Attracting new visitors (particularly international)*
- Attracting investment*
- Improving the quality of accommodation*
- Improving hotel occupancy throughout the year*

*The proposals present a purpose built hotel with improved leisure/spa facilities which the modern fully independent traveller (FIT) expects. For overseas visitors especially, having an internationally recognised hotel brand available to book online, all year round will undoubtedly attract new visitors to the destination. The demand for quality holidays in the UK is continuing, with 'staycations' expected to increase and importantly, moving into the 'shoulder' and winter months.*

*Using the HCA's Employment Density Guide 3rd Edition, we estimate this development will create 101 jobs. We have interpreted this development as mid-scale and assumed 2 beds per room in reaching this calculation. This is a welcome investment to support the local economy and develop skills. We would encourage the operator to link with South Devon College to develop accessible Apprenticeships and to also attend Torbay's recruitment events to employ local talent.*

#### **Torquay Neighbourhood Plan Forum:**

*The TNPF are not against the redevelopment of the site 'in principle' but the design that nominally doubles the height of the existing hotel making it some 3 levels above the prevailing height in the local area and increases its bulk and size dramatically filling the site is absolutely contrary to the policy in our Neighbourhood Plan that was drafted with Government support to make sure new development fits with the surrounding area. It is clearly overdevelopment that is not justified by a published financial viability report justifying this development as the only viable option. Because we support a more modest design a development is possible within the policy framework.*

*The design is also contrary to the Local Plan policy on parking provision and there are no enforceable planning conditions that are identified to offset this. The concept of 'concierge parking' cannot be conditioned or enforced or has that concept been given any definition in the application.*

*The design is also contrary to the Local Plan policy on Amenity. The development because of its additional height has a large negative impact on the amenity of the Cromatie Point apartments to the rear because of the rear facing bedroom windows overlooking their homes an average of 35m (100 feet) away when accepted design principles indicate the minimum separation should be over 40m. The impact of light, noise and air quality from operations has not been quantified.*

*The impact on the adjacent major highway route between Torquay and Paignton has not been properly assessed. It uses data that is unrepresentative of the expected traffic flows during the summer season and does not factor in the use of any 'concierge parking' in the trip rate analysis.*

*We recognise the need for regeneration of this poor quality site and we would support a more modest design from a range of potential development types to*

*assure its viability based on a proper assessment of the site's value rather than a purchase price.*

#### *Development Plans*

*The Torquay Neighbourhood Plan having passed referendum is now (with the Local Plan) a Development Plan for Torquay and must be used to decide planning applications in Torquay unless material considerations indicate otherwise. Any potential conflict with another Development Plan uses the latest Plan; in this case the Neighbourhood Plan takes precedence.*

#### *Neighbourhood Plan Policies*

*The application is contrary to Neighbourhood Plan Policy TH8  
Policy TH8 - Established architecture*

*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.*

*The built environment in the surrounding area provides the evidence for interpreting the policy in the Neighbourhood Plan in terms of building height, scale and bulk.*

*The existing building is a standalone structure, which is two to three storeys in height and is set within a curtilage area mostly comprised of a car park.*

*The locality is characterised by a range of building types including hotel buildings, apartment blocks, and houses. The neighbouring Corbyn Apartments is a four storey building with a mansard roof; to the west, and located on the hillside beyond the railway line, is the Cromartie Point Flats building, which is four storeys in height, and there are various other, similarly sized apartment buildings around the same location, off Livermead Hill. The three-storey Livermead Cliff Hotel is located on lower ground to the south-east.*

*It is clear that the prevailing height in the surrounding area is a maximum 4 stories and typically 3 stories in the immediate area.*

*The proposed building would be 7 levels at its highest point above ground level. The proposal would range from four storeys at its southern end, to six storeys in height at its northern end, above ground level, however, a sub-surface car park would also be provided at the building's southern end. The building would measure between approximately 15m in height from the road level at the southern end of the building, and 20m from road level at the northern end of the building. This compares to around 12m in relation to the existing building. Each bedroom floor is approx. 3m making it 4 levels higher than existing. The proposed building would be tallest at its northern end and would step down towards its southern end. The footprint of the building would measure approximately 104m in length, and would*

*have an average depth of around 17m. The footprint of the building would measure 1657sqm, which compares to 1089sqm in relation to the existing building.*

*This clearly shows the size and bulk is a substantial increase on the modest hotel existing on the site and that its height is 3 times higher than the existing building*

*Rejected appeal for Oversands now named SeaJay APP/X1165/D/11/2165031  
The Council rejected a roof terrace on top of the 3 level SeaJay house – the immediate neighbouring property to the North of the site on Livermead Hill and at appeal that rejection was upheld on the basis of ‘the proposed house would, because of its excessive height in relation its context, harm the character and appearance of the area and would be contrary to the development plan.’ This appeal decision by an independent planning inspector supports the interpretation of the prevailing height for the area at the level of SeaJay. This prevailing height is judged as equivalent to removing 3 levels from the proposed development.*

*NPPF states quite clearly that: ‘New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.’*

#### *Local Plan Policies*

##### *DE4 Building Heights*

*The proposed development is contrary to policy DE4 in the Local Plan  
Local Plan Policy DE4*

*The height of new buildings should be appropriate to the location, historic character and the setting of the development.*

*New development should be constructed to the prevailing height (the most commonly occurring height) within the character area in which it is located, unless there are sound urban design or socio economic benefits to justify the deviation from this approach.*

*The explanation in 6.4.2.27 goes on to limit tall buildings to ‘town centres’ and ‘station character areas’ and states that ‘the remainder of the Bay outside these areas is unlikely to be acceptable for tall buildings in order to maintain existing low rise residential character, residential amenity, landscape character and green, uninterrupted hilltops.’*

*Although there are supported options these are not in compliance with the more recent Torquay Neighbourhood Plan that takes precedence under the law.*

*In any case the development does not increased the vitality of the area as apart from this one site the area is not run down; it might be argued that it contributes to the regeneration of Torbay but the redevelopment of the site is not in question so*

*a more suitable and complaint development would be supported; it will not strengthen the character of the area, rather detracting from the modest 3/4 storey prevailing development; it will have a hugely negative visual impact both in the immediate area and from vistas further away; it will have little urban design benefit as designed, in fact it will be negative and any socio economic benefit is less than significant in the context of a replacement business of the same type; it will be a negative addition to the landscape overpowering the backdrop of modest residential developments, it will also block local and long distance views and key vistas because of its height particularly from the seafront when viewed from Torquay and on the Livermead hill area behind the development.*

### *Local Plan Policy TA3*

*The Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. The loss of on-street or public parking provision will be a material consideration in planning applications...Development proposals will be expected to meet the guideline requirements as set out in appendix F*

### *Appendix F Hotels and holiday developments*

*1 space per bedroom, plus appropriate provision for coaches. Provision for setting down and picking up guests by car or coach should also be provided.*

*In instances where the location of the hotel and its setting may limit the parking available, the availability of public spaces will be taken in to account.*

*The designed parking provision is contrary to Policy TA3 in the Local Plan that requires 151 parking spaces (1 per room) and appropriate parking for coaches plus drop off/pickup by car and coach. Cycle space should be 1 per 2 employees which equates to approx. 50 spaces that should be covered and secure and integral to the development.*

*The proposal is for 101 car parking spaces in total, equating to 2 spaces per 3 guestrooms, along with a temporary coach drop-off area capable of accommodating two coaches.*

*The exception is not appropriate as there are no public car parks within reasonable distance and any use of public highway parking will lead to antisocial parking in adjacent streets that will impact on the key designated diversion route for seafront road closures (via Wheatridge Lane/Underhill Road).*

*It is of note that the Police have objected to the inadequate parking provision.  
Concierge parking*



*It is noted that the developer has stated that they will operate concierge parking when there are inadequate parking spaces. This aspect is not an exception in the Development Plan. The proposal is not enforceable and cannot be conditioned as it does not meet the '6 tests'. The Travel Plan is not enforceable and cannot be conditioned for the same reasons. Therefore the impact on parking in the surrounding roads that include the main diversion route when the seafront is closed (which becomes more likely as climate changes) cannot be mitigated.*

*In practice it is reasonable to expect guests arriving by car will prefer to park on nearby roads that to have their vehicles in a public car park. On the current estimated occupancy and parking provision this is likely to be around 20% of all guests rising to over 30% at peak times.*

*The Local Plan states: 'Public car parks are increasingly being used by developers to reduce the need for on-site parking' but policy TA3 states clearly 'The loss of public parking provision will be a material consideration in planning applications'.*

*Therefore the use of concierge parking does not meet policy A3 of the development plan.*

*DE3 Development Amenity*

*Local Plan Policy DE3 Development Amenity*

*All development should be designed.....not unduly impact upon the amenity of neighbouring and surrounding uses....*

*The impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.*

*Satisfactory provision for off-road motor vehicle parking.*

*The development is contrary to this policy. It is just 30m from the nearest neighbour – Cromatie Point - and the height and scale will mean the rear facing bedrooms will directly look in to the 16 apartments in the block causing a significant loss of privacy and substantial overlooking; it will also be visually obtrusive being double in height to the existing.*

*In law the enjoyment of a view is an important part of the residential amenity of a neighbouring property, and its loss therefore will have an adverse impact on the residential amenity of that property.*

*Property separation*

*<https://www.adur-worthing.gov.uk/media/media,98782,en.pdf>*

*Accepted design for residential flats and homes in an urban setting is that a distance of 22m is considered sufficient between 2 storey blocks of flats but this increases to 28m in the case of 3 storey flats*

*[http://www.wrexham.gov.uk/english/planning\\_portal/lpg\\_notes/lpg21.htm](http://www.wrexham.gov.uk/english/planning_portal/lpg_notes/lpg21.htm)*

*Homes should benefit from a satisfactory degree of privacy and daylight. The residents of existing houses should also not be unduly affected by the development.*

*To achieve this, minimum separation distances should be maintained between houses, and in particular, between windows lighting habitable rooms. Habitable rooms include living rooms, bedrooms, studies and kitchens. They do not include halls, stair landings, passageways and utility rooms.*

*Where two habitable rooms face each other such that direct overlooking is physically possible, the windows should be 22 metres apart.*

*Where the ground slopes, an increased distance will be required, so that for every half metre difference in height, the distance in the standard is increased by one metre.*

*Taking these guidelines in to account for the landscape setting in the area of the proposed development means that under these established design principles the minimum distance between the development and Cromatie Point would be 28m (distance between 3 storey properties and in this case it is between a 7 level and 4 level property so should be greater) + 10m (factor for 5m difference in ground level) making 38m. This distance encompasses the whole of Cromatie Point.*

*The cumulative effect of this is that the privacy of the Cromatie Pooint apartments is certainly compromised by the proposed development and is contrary to established design principles that protect privacy.*

*Other material considerations*

*Highways/Transport Assessment*

*The developer uses a mid-winter measure of the traffic flows North and South outside the site. The February 2018 data indicating around 500 vehicles per hour at peak times is therefore does not represent the main tourism season. This deficiency was partially offset by adopting a 50% uplift to around 750 vehicles per hour.*

*Torquay is a seasonal tourism destination where visitor numbers increase dramatically during the main season and in particularly during July and August.*

*Looking at the Department of Transport official count for A3022/Rathmore (Torbay Road before the Rathmore Road traffic lights) the peak count travelling South early June 2013 was 1460 at 17.00 and North 613 at 16.00. Considering the Road layout it would be expected that the vehicles turning West up Rathmore Road would reduce the South flow but increase the North flow opposite Corbyn Head Hotel for obvious reasons.*

*The end of October figures show a similar level as this is a half term holiday period and is consistent with the June figures.*

*August peak tourist season data is not available that would be expected to add a substantial increase.*

*1500 vehicles per hour is a vehicle every 2.5 seconds*

*The accepted safe gap between vehicles for turning across a flow of traffic is 4 seconds*

*The inevitable conclusion is that the data presented in the report is significantly too low by a factor of at least 2. The queue modelling would have a point where traffic flows are sufficient to start to stop vehicles turning in to the hotel as the gap between vehicles becomes too small to safely cross the line of traffic (or enter the line of traffic on exiting the hotel).*

*Considering the discrepancy in traffic flow volume and the potential risk to traffic flows both from Torquay and Preston a reassessment of the submitted Traffic Assessment for the hotel is essential using expected data rather than mid-winter data with a nominal uplift as presented?*

*The proposal is for a substantial increase in vehicle usage from the almost 4 times increase in bedrooms (39 to 151) and the expectation of high occupancy (against a run down low occupancy hotel). Without a right turn refuge lane to service the development then significant additional congestion is highly likely during a significant part of the day and in particular during busy periods that will cause major issues for vehicular movements between Torquay and Paignton. Another development on the close by site at Hollicombe was mandated to provide a right turn refuge and the adjacent right turn to Cockington also has a refuge. The transport assessment does not provide evidence that entering or leaving the site will not cause disruption during the main summer season (it uses low season winter figures for traffic flows) or at peak times when vehicles are turning right and blocking the traffic from Torquay or vehicles are turning right towards Paignton. It is well known that the congestion is heavy during the very periods that hotel use is at a maximum.*

*The transport assessment does not consider the impact of additional on road parking arising from the restricted onsite hotel parking on the main and critical diversion route along Wheatridge Lane/Underhill Road for traffic when the Torbay*

*Road is closed due to flooding or accidents. It is of note that the Police have objected to the inadequate parking provision.*

*The Torbay Design Review Panel*

*We strongly criticise the Torbay Design Review Panel for not undertaking a professional assessment of the proposal under the publicly available terms of reference. They failed to consider the overall design in relation to its impact on the local area and its compliance with the Local and Neighbourhood Plan policies. We also criticise the makeup of this Panel as not representing a truly independent panel of appropriately qualified professionals capable of assessing major developments of this sort.*

**Summary of Representations**

The application is accompanied by a Statement of Community Involvement detailing the applicant's community engagement efforts. These have included a public exhibition and the use of a dedicated website. The Council has publicised the application through the use of letters, site notices, and advertisements in the local press.

526 representations have been received in total: 20 in support, and 506 objecting to the proposal.

The letters of objection include representations from members of the public; the Cockington, Chelston, and Livermead Community Partnership; and the Torbay Coastal Heritage Trust. A summary of the concerns raised to date, where material to planning, is as follows:

- The changes made have not addressed the previous reasons for refusal or the other concerns previously raised;
- The proposal is contrary to the policies of the Torquay Neighbourhood Plan, the Torbay Local Plan, and the National Planning Policy Framework;
- Height, scale, bulk, and massing on a constrained site considered excessive, amounting to over-development;
- The regeneration benefits are limited in the location proposed and would not outweigh the harm that the proposal would cause;
- Harm to the character of the area, contrary to Para. 127 of the NPPF;
- Out of proportion in comparison to the existing building;
- Would dominate the local landscape;
- Would be forward of the existing building line;
- Overlooking, loss of natural light, and an overbearing effect in relation to neighbouring buildings and properties, including, but not exclusive to, the Corbyn Apartments and Cromartie Point apartments;
- The proposal would be contrary to Policy DE3 of the Local Plan in terms of its impacts on neighbouring amenity and impact on highway safety;
- Noise, dust, air quality, and light intrusion nuisances, along with general

- disturbance, arising from construction; traffic; deliveries, air conditioning and other plant; and the use of the outdoor terrace areas in relation to neighbouring properties, particularly Corbyn Apartments, Cromartie Point, and others around Livermead Hill;
- Proposal inappropriate in a quiet residential setting;
  - Likely traffic impacts and harm to highway safety, particularly along that part of the public highway in relation to the bus stop, crossing pedestrians, and nearby junctions;
  - Shortcomings in the submitted Transport Assessment;
  - Insufficient numbers and types of parking spaces, including disabled spaces, on-site and lack of public car parks likely to result in overspill parking and congestion in surrounding streets, contrary to Policy TA3;
  - Insufficient bicycle storage;
  - Visitors to the hotel are unlikely to use public transport;
  - Inadequate and dangerous loading bay arrangements proposed for Livermead Hill;
  - Bridge over the railway line is weak and cannot cope with HGVs or significant additional traffic;
  - Will set a precedent for similar development;
  - Greater in height than allowed by Policy DE4 of the Local Plan, and TH8 of the Torquay Neighbourhood Plan;
  - Risk of flooding and inadequate drainage arrangements;
  - Lack of landscaping;
  - Potential effects in terms of micro-climates.

The 20 letters of support state that:

- The existing hotel is outdated and not compliant with health and safety standards;
- The design and scale of the proposal would complement the seafront and surrounding area;
- There would be benefits to the local economy.

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

The matters for consideration are:

1. Principle of Development
2. Economic Benefits
3. Design and Visual Impact
4. Impact on Amenity
5. Trees and Ecology
6. Flooding and Drainage
7. Highways Impact
8. S106
9. Other Considerations

## **1. Principle of Development**

There is an established hotel use at the site, and the proposal is therefore acceptable in principle.

Insofar as the proposal would result in the replacement of the existing hotel, Policy TO1 of the Local Plan promotes the improvement, modernisation and the addition of new tourism facilities in order to attract new visitors, particularly overnight, to support the local economy. The Policy states that the Council wishes to see the quality of accommodation improved, with a wider range of new and refurbished facilities and services. This will be achieved by supporting the principle of new tourist accommodation, subject to other policies in the Local Plan, and the creation of new high quality tourism accommodation in sustainable, accessible locations. The Policy also states that Core Tourism Investment Areas (CTIA), such as the site's location, are the main focus for investment in tourism.

Policy TE1 of the Torquay Neighbourhood Plan states that new tourism developments will be supported where, in particular, they make use of brownfield land.

The proposed hotel would provide a larger, modern and improved tourist facility within an area allocated for such developments within the Local Plan, on brownfield land, and in place of a tired and apparently unviable hotel. The proposal is considered to be acceptable in principle.

## **2. Economic Benefits**

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort. Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the Bay. The Local Plan seeks to promote growth in sectors that are particularly important in Torbay, namely tourism and catering.

Policy SS11 (Sustainable communities) explains that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

Policy TC5 (Evening and night time economy) states that the Council supports, in principle, development that helps create a vibrant, diverse evening and night-time economy within the town centres, seafront and harbour areas of the Bay.

The Torquay Neighbourhood Plan refers to a document known as 'Turning the Tide for Tourism', which along with the 'English Riviera Destination Management Plan' identify an oversupply within Torbay in the small B&B guest house sector, with significant oversupply of low quality low value-added small hotels. They also identify a significant shortage of large, modern, quality hotels and branded chains, the proposals would help to address such a shortage.

Objectors have stated that the regeneration benefits of the proposal are limited in the location proposed, and would not outweigh the harm that the proposal would cause.

The proposal would result in the replacement of what is considered to be a tired and, according to the submitted information, loss-making and unviable hotel with a modern hotel facility. The submitted information states that some of the existing guestrooms are as small as 10sqm in area, whereas the guestrooms forming part of the proposal would have floor areas around 24.5sqm or more. The proposal would include visitor attractions available to hotel guests, including a spa, roof-top bar, and restaurant. The applicant's submitted viability report concludes that a 152-bed hotel is the minimum size required to ensure a viable scheme, ensuring the necessary efficiencies within the business to deliver cash-flows which derive a value in excess of the cost of delivery. These conclusions have been independently corroborated by the Council's viability advisor.

It is estimated that the proposal would result in around £20 million being invested in the site. It is anticipated that the proposed hotel would operate year-round and accommodate up to 304 guests at any one time. Assuming an occupancy rate of 75%, the submitted information estimates that there would be 83,000 sleepers per annum, generating up to £2.7 million of extra leisure spend per annum in Torbay. It is anticipated that the new hotel would create around 101 new full-time equivalent jobs compared to the 30 currently employed, 20 of which are full-time. During the construction phase there are likely to be additional jobs created. During the construction phase, the gross value added (GVA) is expected to be £6.2 million.

The Torbay Development Agency supports the application, noting that:

*"The new hotel will support the development of the visitor economy, currently worth £430m, attracting 4.6m visitors a year. The proposed investment aligns to the ambitions of the English Riviera's Destination Management Plan 2017-2021 specifically:*

- *Attracting new visitors (particularly international)*
- *Attracting investment*
- *Improving the quality of accommodation*
- *Improving hotel occupancy throughout the year*

*... we estimate this development will create 101 jobs."*

Given that the proposal would modernise and enhance the tourism facilities available at the site; create new jobs; and is expected to generate significant additional spend within the local economy, it is considered that it corresponds with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan, and would bring economic benefits to the Bay compared to the existing situation.

### **3. Design and Visual Impact**

The National Planning Policy Framework states that one of the core land-use planning principles that should underpin decision taking is to always seek to secure high quality design. In addition it states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. New development should be sympathetic to local character and history, including surrounding built environment and landscape setting.

Consistent with these paragraphs, Policy SS11 of the Torbay Local Plan states that development must help to create cohesive communities within a high-quality built and natural environment where people want to live and work and that development proposals will be assessed according to whether they achieve certain criteria as far as they are relevant and proportionate to the development. Criterion 3 refers to development that helps to develop a sense of place and local identity and criterion 10 refers to delivering development of an appropriate type, scale, quality, mix and density in relation to its location.

Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

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

Policy DE4 (Building Heights) states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. New development should be constructed to the prevailing height within the character area in which it is located, unless there are sound urban design or socio-economic benefits to justify a deviation from this approach. The policy goes on to state that new buildings above the prevailing height will be supported where they:

- Enhance the vitality of an area
- Contribute to the regeneration of Torbay
- Strengthen the character of an area
- Are appropriate in terms of their visual impact



- Provide wider urban design or socio-economic benefits
- Make a positive addition to the built form, townscape and surrounding landscape; and
- Preserve or enhance local and long-distance view, and key vistas.

The Planning Committee previously resolved to refuse an application for a similar scheme at the site (Reference P/2018/1086/MPA) for the following reason:

*The proposed design by virtue of its height, massing and bulk would be out of keeping with the character of the immediate locality. The proposal is therefore contrary to Policy TH8 of the Torquay Neighbourhood Plan and Policy DE1 of the Torbay Local Plan.*

The scheme now presented has been reduced in height by 1m overall and the top floor has been reduced in area by approximately 30sqm. The effect of these changes has been to shrink the size of the building, compared to the refused scheme, by 1565m<sup>3</sup>. This amounts to a 5.4% reduction in the overall size of the building.

Objections to the proposal have stated that it would result in harm to the character of the area, contrary to the guidance contained in the NPPF along with Local Plan and Neighbourhood Plan policies. The height, scale, bulk, and massing on a constrained site are considered excessive, amounting to over-development. It is stated that the proposal would be out of proportion to the existing building, that it would dominate the local landscape, that it would be forward of the existing building line, too tall in comparison to other buildings in the locality and therefore contrary to Policy DE4 of the Local Plan, and that it would suffer from a lack of landscaping.

In terms of the proposal's height, it is worth bearing in mind that measuring building by storey heights alone can be misleading. Floor to ceiling heights can vary from building to building, ground levels can vary from site to site, and, as in the current case, some floors can be sub-surface. The proposed building would vary in height from one end to the other, and would include sub-surface elements. Above ground level, the proposal would range in height from four storeys at its southern end (around 14.5m from ground level), up to six storeys in height at its northern end (20m), where the highest floor would be recessed to reduce its visual impact.

Whilst it would be taller than other buildings in the local area, it is noted that its immediate surroundings are characterised by a range of building types and sizes, and that ground levels are subject to significant change. When the prevailing ground levels are taken into consideration, the proposal, at its tallest point above ordnance datum (AOD) would only be around 3m higher than the Cromartie Point Flats, which are located on higher ground, approximately 31m to the west. A number of 4/4+ storey buildings, which are also located close by, are located on significantly higher ground and, arguably, have as imposing an effect as the

proposal would, if not more so depending on the vantage point. These include the Sunleigh Apartments, Panorama, and Hyperion, and there are other examples. It is also noted that, when viewed from a number of vantage points along the coastline and from the sea, these neighbouring residential blocks tend to visually coalesce, and give an impression of larger scale development than is the case when they are seen in their immediate context.

In considering the “prevailing” building heights in the local area, a further consideration is how far to ‘cast the net’ in terms of what the “local area” is. It is noted that the Building Heights Strategy, which formed part of the evidence base for the Local Plan, states that tall buildings can be acceptable in the Coastal Zone. It seems reasonable to consider the site as forming part of a wider waterfront character area stretching northwards and parallel with the coast, and encompassing the wider Core Tourism Investment Area in which it is located. Considered in this way, the proposal would be quite in keeping, in terms of its height and scale, with other buildings located along the coast line, including the Grand Hotel, the Seaway Court building, and Abbey Sands development, all of which are located off Torbay Road.

In terms of its height and scale, the revised scheme is considered to be appropriate to the location, historic character, and the setting of the development. In any case, even if the proposal were considered to be above the prevailing heights in its character area, as the proposal would result in the replacement of a tired and unsightly building with what is considered to be a significant visual and townscape improvement; that it would preserve wider public views; would strengthen the character of the area and be appropriate in terms of its visual impact; enhance local and long-distance views; bring socio-economic and regeneration benefits, and contribute to the vitality of the CTIA and immediate locality; it is considered that there are sufficient grounds to allow for an exception in this case, as allowed by Policy DE4.

The Torquay Neighbourhood Forum has stated that there is inadequate justification on viability grounds for a development of the scale proposed at the application site. The proposal would involve a significant increase in the quantum of development at the site, compared to the existing situation. It was noted in the previous section that an independently corroborated viability report concludes that the scale of development proposed is necessary to ensure an economically viable hotel development at the site. However, given that the proposal, in terms of its overall size, is not considered to be unacceptably harmful to the character of the area or local amenity, and that it would provide what are deemed to be acceptable arrangements in relation to parking, access, amenity space, landscaping, and other services, that the proposal would not result in an over-development of the site.

The proposed development was considered by the Torbay Design Review Panel, and their comments are regarded as a material consideration. It was concluded

that a development along the lines proposed would be acceptable in this location. The proposal is seen as an opportunity to 'bookend' the wider seafront landscape, which, as discussed above, incorporates a number of buildings of a similar height and scale to that being proposed. A bold, horizontally orientated façade, in keeping with other waterfront developments, such as Abbey Sands and Seaway Court, was also encouraged. In terms of its design and appearance, the proposal is considered to be consistent with the advice and conclusions of the design review process. The proposal would incorporate a range of materials, including red sandstone to the lower boundary structures, to front Torbay Road, and in keeping with the historic character of the area. The remainder of the building would incorporate a mixture of white and black/blue brick, glazing, zinc cladding, and coloured aluminium composite panelling.

The proposed building would be set forward of the street-line marked by the existing buildings located alongside Torbay Road in the vicinity of the site, however, the proposal would still maintain what is considered to be a sufficient area of open space to the front to prevent unacceptable harm, particularly considering the other benefits of the proposal in relation to the character of the area.

The Torquay Neighbourhood Forum has referred to a previous planning decision at a nearby site, known as Oversands, although the Council's records do not include an appeal decision with the reference number and address provided in the Forum's comments. Planning permission was refused by the Council in 2009 for a proposed roof terrace at Oversands, as suggested in the comments, and the Planning Inspectorate did dismiss the subsequent appeal. The Council's reason for refusal states that:

*"The proposal, due to its form, detailed design, and exacerbated by its resultant use, would have a detrimental impact upon the character and appearance of the property and the streetscene, and set an undesirable precedent for similar discordant rooftop features within the local area..."*

The Council's reason for refusal and the appeal decision are not considered to be of relevance to the application now under consideration. Planning applications must be considered on their own merits; the proposal is for a completely different type of development at a site that has a different context and nature to Oversands. The decisions referred to do not, in any case, appear to give any guidance in relation to appropriate building heights at the site under consideration.

Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features. The site is currently very limited in terms of its landscape features. The submitted landscaping information shows proposed hard and soft landscaping along the frontage of the site, with terracing, steps, tree and shrub planting which it is considered would improve the appearance of the site. The Council's Arboricultural Officer has raised no

objections to the proposal subject to the use of a condition to secure a scheme of landscaping.

It is considered that the form and layout of the scheme would make effective use of what is brownfield land, and that the proposal responds well to the topography of the site. It would result in a significant enhancement of what is a visually prominent site within the CTIA, replacing a dated and tired structure. Given the proposal's siting, layout, scale, and overall design, it is considered that it would not result in any unacceptable harm to the character of the area. Subject to the use of conditions to secure the use of high quality materials; a scheme of hard and soft landscaping; boundary treatment details; external lighting, bicycle, and refuse storage arrangements, it is considered that the proposal is in accordance with Policies DE1, DE4, and SS11 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

#### **4. Impact on Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity.

Objectors have raised concerns about the proposal's potential impact on neighbouring and local amenity, referring to overlooking, loss of natural light, and an overbearing effect in relation to neighbouring buildings and properties, including, but not exclusive to, the Corbyn Apartments and Cromartie Point apartments. Concerns have also been raised about the potential for noise, dust, air quality, and light intrusion nuisances, along with general disturbance, arising from construction works but also during the use of the development, owing to traffic, deliveries, air conditioning and other plant, and the use of the outdoor terrace areas, particularly in relation to the Corbyn Apartments, Cromartie Point, and other properties around Livermead Hill. The proposal is considered to be inappropriate in a quiet residential setting.

The site is located within the Core Tourism Investment Area; it is occupied by a hotel and is located in close proximity to other, long established hotel developments, including the Livermead Cliff Hotel, which is located immediately to the east, and Livermead House Hotel, located to the north. The site's western and eastern boundaries adjoin a railway line and Torbay Road respectively, the latter being a well trafficked route between Torquay and Paignton.

The proposed building would be located around 12m to the west of the nearest residential property along Livermead Hill, known as Sea Jay. The Cromartie Point apartment building would be located around 32m from the main body of the proposed hotel, at its nearest point, with the apartment building being located on higher ground (the difference being around 3.6m at this point.) The adjoining Corbyn Apartments would be located approximately 9m to the south of the building, with an access ramp to the lower car park and a boundary wall being

located between the two. Otherwise, the nearest residential property, located to the west of the Corbyn Apartments on the opposite side of the railway, would be a house and its curtilage located at the north-eastern end of Woodleys Meadow. The curtilage of this property would be located around 19m from the proposed hotel, and the dwelling in excess of 32m. The Sunleigh and Panorama apartments, which are located on higher ground to the west of the proposed hotel, would be located in excess of 40m away. The Livermead Cliff Hotel would be located around 46m to the east. Further dwellings, located to the south, would be located in excess of 60m away.

The neighbouring properties that would be most affected by the proposal would be the units at the northern end of the Corbyn Apartment building, which have windows facing into the site; the nearest property located along Livermead Hill, known as Sea Jay; the Cromartie Point apartments and Panorama; and the aforementioned property located at Woodleys Meadow.

### *Daylight and Sunlight Impacts*

The application is supported by a Daylight and Sunlight Study, which has been prepared by chartered surveyors who specialise in the effects of development on light, and right-to-light issues. As the proposed development is now smaller than previously proposed, the authors of the report have advised that the effects are likely to be improved following their previous report, and they remain of the view that the proposal would have a low impact on the light receivable by neighbouring properties.

The guidance contained in the NPPF states that a flexible approach to daylight and sunlight impacts should be taken by planning authorities to ensure the efficient use of land. The study aims to assess the impact of the development on the light receivable by neighbouring properties, and is based on the tests established in British Research Establishment (BRE) guidance, which is linked to the requirements of British Standard 8206. The study considers daylight and sunlight availability to windows, along with overshadowing to gardens and open spaces.

It is concluded that, with the proposed development in place, all but one of the neighbouring windows pass the relevant tests in relation to sunlight availability, both during the winter and summer months, once factors such as overhanging balconies are taken into consideration. The one exception falls short by a very small amount. In relation to overshadowing to gardens and open spaces, the proposal far exceeds the requirements of the BRE test. In terms of daylight availability to neighbouring windows, the proposal passes the relevant tests, except in relation to isolated windows at Cromartie Point, The Corbyn Apartments, Seajay (referred to as Oversands in the study), and Panorama. However, once overhanging balconies are taken into consideration, along with the nature of the rooms affected (mostly bedrooms or kitchens, where daylight is less important), the remaining impacts are considered to be low. Where living room windows fall

short of the BRE tests, it is by a very small amount, and the guidance is intended to be used flexibly.

The study concludes that the proposal would have a relatively low impact on the light receivable by its neighbouring properties, and that there are no daylight or sunlight related reasons why planning permission should not be granted.

### *The Corbyn Apartments*

The Corbyn Apartments building includes flats at its northern end, which include windows that face towards the site. The southern end of the hotel would be located approximately 9m from these windows, although the curtilage of the application site would be between 0.8m and 2m from this building. The proposal would involve the erection of a 1.8m high wall along this boundary. An access ramp leading down to the under-croft car park, along with part of the car park itself, would be located between the proposed building and the side of the Corbyn Apartments. The openings in the north-eastern elevation of this neighbouring building relate to two holiday lets (ground and first floor), and two residential flats (second and third floor.) The windows in each case relate to a bedroom, a kitchen and a lounge (secondary window in this case.)

In terms of privacy, it is considered that the proposal would not result in any unacceptable harm. The only openings to be located in the proposal's southern elevation can be obscure glazed if necessary, and a condition can be imposed to secure this. In terms of outlook and access to natural light: the proposal would introduce new built development in closer proximity to the neighbouring windows than is currently the case, amounting to around 14.5m in height, 9m away. Given the nature of the way kitchens and bedrooms tend to be used, the loss of outlook in relation to these rooms is considered acceptable. The lounge windows facing the development are secondary openings, and the proposal would not affect the quality of outlook from the main, east-facing openings of these rooms. In terms of noise and other disturbance, it is noted that the site is already in use as a surface-level car park at the southern end of the site. The proposed sub-surface car park is likely to move car parking further away from the windows under discussion, with most of the spaces being screened by the proposed building. It does not seem likely that the proposed car park and its access would see significant usage at unsociable hours and given their siting and design, it is considered unlikely that there would be any unacceptable increase in disturbance to the Corbyn Apartments, over and above the existing situation.

### *Seajay, Oversands, and Rosaire*

The nearest neighbouring properties located along Livermead Hill are Sea Jay, Oversands, and Rosaire, the closest of which is Sea Jay, located around 12m from the proposed building, and 9m from the proposed loading bay. It is noted that these neighbouring buildings are generally orientated towards the south-east and that

the proposal would not be located within their main line of sight towards the sea. Sea Jay does include openings within its south-western elevation, facing towards the site, and includes a wrap-around balcony along this and its south-eastern elevation. The proposed building would not be located directly within the line of sight even of this building's south-western elevation, although it would be visible and have an effect on this building's outlook. This neighbouring property is generously served by openings facing the south-west and south-east, and given the proposal's siting, scale, and design, it is considered that it would not result in an unacceptable loss of outlook in relation to this neighbouring property. The privacy of this dwelling's occupiers can be secured through the use of conditions to ensure that the proposed roof-terrace includes a privacy screen, and obscure glazing in relation to the roof-top bar. It is noted that the proposed guestrooms at the northern end of the building would not include any openings facing towards this neighbouring property. Seajay is located alongside Livermead Hill and so will already experience a degree of noise disturbance from the public highway. The proposed delivery bay would serve to create some additional disturbance, however, this element of the scheme will not be in constant use and a condition can be imposed to limit its use to more sociable hours of the day. It is considered that the proposal would not result in any unacceptable harm to Oversands or Rosaire, in terms of their outlook, access to light, or privacy, given their distance from the proposal and orientation, and the proposal's siting, scale, and design.

#### *Cromartie Point Flats*

The Cromartie Point flats are located between 30m and 40m from the rear of the main body of the proposed building, and its communal garden area would be located around 22m away at the nearest point. This building is located on higher ground than the proposal and, as such, whilst the proposal would be a taller structure, at its tallest point (the 4<sup>th</sup> floor), it would only be around 1.8m higher than the top of this neighbouring building. This neighbouring building is orientated towards the east and, as such, the proposed hotel would be located within the line of sight of these flats, and it would obstruct views that this building's occupiers currently experience. The proposal has involved a revision compared to the previously refused scheme, with the top floor being reduced, by between 1m and 1.8m, at its northern end and this would, to some extent, reduce the impact on views from some of the flats. Nevertheless, the loss of private views is not a material planning consideration.

Given the relationship between the proposal and this neighbouring building, including the separation distances involved; the differences in ground levels; the orientations of the two buildings; and the proposal's height relative to this neighbouring building, along with the other aspects of its design, it is considered that it would not result in unacceptable harm to the amenities of the occupiers of this building, in terms of their outlook, privacy, access to light, or in relation to general disturbance.

### *Woodleys Meadow*

The nearest dwelling located at Woodleys Meadow would be located in excess of 32m to the south-west of the proposed building, with the nearest part of its rear garden being located around 19m away. The proposal would introduce a degree of overshadowing within the rear garden environment by introducing built development in closer proximity than is currently the case. However, it is noted that this property occupies what is already a constrained site, with the Corbyn Apartments being located to the east, on the opposite side of the railway, and higher ground levels located to the north. In terms of this property's outlook, access to natural light, and privacy, it is considered that the proposal would not result in unacceptable harm to the amenities of this property's occupiers.

### *General Amenity Considerations*

The Council's Community Safety (environmental health) officers have raised no objections to the proposal, subject to the use of conditions: to limit noise from any proposed extractor equipment and roof-top plant; to secure a construction management plan to prevent unacceptable levels of nuisance during the demolition and construction phase of the development; and to limit the use of the roof-top terrace to certain times of the day. Conditions can also be imposed to ensure the installation of obscure glazing in relation to any windows directly facing the Corbyn Apartments and in relation to the roof-top bar where it would allow overlooking towards properties at Livermead Hill; to require the installation of a privacy screen on part of the roof-terrace, as indicated on the submitted plans; to limit the hours of use for the loading bay located along Livermead Hill; and to secure the details of boundary treatment and external lighting.

Subject to the use of these conditions, it is considered that the proposal, given its siting, scale, design, and relationship to neighbouring properties, would not result in unacceptable harm to the amenities of neighbours, in terms of their outlook, access to natural light, privacy, or other nuisances such as noise, dust-drift, or light-intrusion. As such, the proposal is in accordance with Policy DE3 of the Local Plan.

## **5. Ecology**

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments, and fauna and flora, commensurate to their importance.

The site is comprised of hardstanding areas and the existing hotel building, and is of very limited ecological value.

A submitted bat and breeding bird survey has confirmed that the proposal would not result in significant harm to protected species, subject to the use of mitigation



measures, and it is recommended that these be secured through the use of a planning condition. The construction phase would result in the loss of a number of potential roost features which are present on the existing building, however as these features are only likely to support individual or low numbers of bats, the proposal is considered unlikely to significantly affect local bat populations. Suitable replacement roosts can be provided through the installation of five bat tubes (Schwegler 2F or similar approved) at a height of at least 5m on the south-eastern and south-western aspects of the new hotel. A condition can also be imposed to secure the installation of five bird boxes, as recommended by the submitted information.

Roosting, foraging and commuting bats could be affected by lighting on the exterior of the new hotel. In order to mitigate any potential negative effect, the proposed lighting design would need to avoid direct illumination of the locations of the bat tubes. A scheme of external lighting can be secured through the use of a planning condition.

The site is located alongside the railway, which is designated in the Local Plan as a County Wildlife Site. However, as the proposal would not involve works to the railway, and that measures will be secured through the use of planning conditions to prevent dust-drift and other effects on the railway during the demolition and construction process, it is considered unlikely that the proposal would result in unacceptable harm to the County Wildlife Site.

The Local Planning Authority has undertaken an appropriate assessment of the proposal in accordance with the Habitats Regulations, which has concluded that, considering the proposed mitigation measures, the integrity of the Lyme Bay and Torbay Marine Special Area of Conservation would not be affected by the proposal.

Natural England has raised no objections to the proposal.

In light of the foregoing, the proposal's ecological impacts are considered acceptable, having regard to Policy NC1 of the Torbay Local Plan.

## **6. Flooding and Drainage**

Policy ER1 (Flood risk) states that development must be safe for its lifetime, taking account of its future use, function and government projections of how the risk of flooding may change in response to climate change. Development proposals will be expected to maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The proposal would involve the discharge of foul effluent to the public combined sewer and South West Water has confirmed that there is sufficient capacity.

Surface water would be discharged to the sea via a new, directionally-drilled outfall. Surface water run-off from the existing building is to the combined sewer, whilst run-off from the surface level is to the highway drainage system. It is concluded in the submitted information that the proposal would result in an improved surface water management system, where the existing situation results in a greater likelihood of sewage entering the environment.

Objectors have raised concerns about the potential for flooding at the site. The Environment Agency have not raised any objections to the proposal. South West Water and the Council's Drainage Engineer have raised no objections to the proposal, subject to surface water being disposed of in accordance with the submitted details. A condition can be employed to secure the implementation of the proposed drainage arrangements.

The guidance contained in the NPPF requires the Local Planning Authority to apply the Sequential Test to the proposal, where the objective is to direct development towards land at the lowest risk of flooding. The proposal would result in the replacement of an existing hotel building which is located within flood zone 3. It is considered that the proposal would result in public benefits with the site in question being used to provide an improved tourist facility within the Core Tourism Investment Area. Although a new hotel may be sited elsewhere, within areas at lower risk of flooding, in this case (i.e. replacing an existing hotel in a prominent location close to the seafront and within the Core Tourism Investment Area) there are not considered to be more appropriate sites within flood zones 1 or 2 that could accommodate the development, and it is therefore considered that it passes the Sequential Test.

According to the Planning Practice Guidance, the proposed less vulnerable and more vulnerable uses proposed are deemed to be appropriate uses within flood zone 3. The Exceptions Test requires the Council to consider whether there are wider sustainability benefits to the community of allowing the proposal, and whether it could be made sufficiently safe for its lifetime. As discussed, it is considered that the proposed development would result in wider sustainability benefits, by providing an improved, replacement hotel, with associated economic and regeneration benefits contributing to the vibrancy of the Core Tourism Investment Area. In terms of the proposal's safety, the submitted Flood Risk Assessment makes a number of recommendations intended to ensure this.

Subject to the use of the aforementioned condition, the proposal is considered to be acceptable, having regard to Policy ER1 of the Torbay Local Plan, the NPPF, and the PPG.

## **7. Highway Impact**

Policies TA2 (Development Access) states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate

level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 (Parking Requirements) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per guestroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

Policy TH9 of the Torquay Neighbourhood Plan states that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel. Policies THW5 (Access to Sustainable Transport), THW6 (Cycle Storage and changing facilities), and TTR2 (Sustainable Communities) are also of relevance.

Objections have been received in relation to the proposal's impact on access and parking arrangements, and likely impacts on highway safety, all of which were summarised earlier in this report.

The Planning Committee previously resolved to refuse an application for a similar scheme at the site (Reference P/2018/1086/MPA) for the following reason:

*The level of on-site car parking provision proposed would result in an unacceptable level of off-site car parking demand to the detriment of highway safety. The proposal is therefore contrary to the requirements of policy TA3 of the Torbay Local Plan.*

The Council's planning and highways officers previously advised that the proposal was considered acceptable in highway safety and amenity terms. As part of the current proposal, a number of changes have been made and additional information has been provided by the applicants, as follows:

- Revised coach drop off/collection arrangements which no longer require the reservation of parking spaces;
- Additional information to confirm that a right-hand filter lane would not be required along Torbay Road;
- An enlarged loading bay to be located along Livermead Hill, with additional information demonstrating an ability to accommodate delivery vehicles
- Confirmation that the bar, restaurant, and spa will be for hotel guests only;
- A commitment to provide a valet parking service to an off-site location, for hotel guests, should the on-site car park be at full capacity;
- A commitment to provide a staff minibus service and to prevent staff parking at the site;
- Clarification regarding the number of electric vehicle charging points to be provided.

The proposal would involve works within the public highway, to be secured through the completion of a Section 278 agreement, and these include the widening of the existing access at the southern end of the site, to serve as the site's vehicular entrance; the creation of a new egress point further to the north of this; improvements to part of the footpath located along Torbay Road; and the creation of a loading bay along Livermead Hill. The proposal would include 101 parking spaces (6 disabled spaces and 4 to include electric charging points), equating to two spaces per three guestrooms, which is comparable to the existing situation; temporary space to accommodate two coaches for the purposes of temporary dropping-off; along with bicycle storage and pedestrian access from both Torbay Road and Livermead Hill.

The Council's Structural Engineer has requested the use of a condition to secure details of the proposed demolition and construction works with a view to preventing any harm to the structural integrity of the public highway. This condition can be imposed should planning permission be granted.

The Council's Strategic Transport Officer is satisfied that the proposal would not result in unacceptable harm to pedestrian or road safety, taking into consideration the proposed access and egress arrangements along Torbay Road and the capacity of the proposed junctions; the proposed loading bay along Livermead Hill; and the proposed pedestrian arrangements, including the increased use of the bridge at Livermead Hill. However, this is subject to a road safety audit being secured by condition, which may result in measures such as new signage being introduced along Livermead Hill, and the completion of highway works to be secured through a S278 agreement.

Overall, it is considered that the trip rates to be associated with the proposal are unlikely to result in unacceptable harm, given the availability of non-car modes of transportation, including public transport and pedestrian routes. A robust travel plan can be secured through the use of a planning condition, which would include a strategy for encouraging the use of sustainable forms of transport, with measures included for the monitoring, review and revision of the strategy over time. Twelve bicycle spaces can also be secured through the use of a planning condition.

It is noted that the ancillary elements of the proposal, such as the bar, restaurant, and spa facilities are only to be made available to hotel guests, and this can be controlled through the use of a planning condition. Hotel guests can access the site relatively easily on foot from the town centre, or from the railway station, by bus, or using taxis. In terms of the proposal's effects in relation to parking demand, this is discussed below.

Devon and Cornwall Police have raised concerns about the number of parking spaces proposed and the potential for this to cause overspill parking and conflict.

In relation to the provision of car parking, the Council's Strategic Transport Officer

has stated that:

*“... reading the transport policies collectively, it is possible to off-set the requirement for parking against other considerations and as such I find that any such resultant effect on the highway network would not be severe, and nor would it have a significant impact on safety. I accept the point raised by the Police in their representation that identifies potential conflicts with existing users of neighbouring streets but consider that from a transport perspective, on the basis that the NPPF clearly states that an application should only be refused on highway grounds where it raises significant safety or severe highway network impacts, an objection on parking grounds in this case cannot be justified. Any considerations specifically for crime and disorder would be separate.”*

Whilst the provision of parking spaces would fall short of the requirements of Policy TA3, the supporting text does explain that a site-specific approach will be taken. In this case the provision is consistent with that previously provided as a ratio and, in addition to the significant public transport availability and access to key pedestrian leisure routes, any potential impact on neighbouring streets or pedestrian safety in the vicinity of the site can be mitigated against. On balance therefore, it is considered that the proposal would not result in any unacceptable harm in relation to highway safety or amenity, subject to financial contributions towards sustainable transport and local parking restrictions being secured, and conditions to secure a sustainable travel plan, a road safety audit, a car park management plan, and bicycle storage arrangements. The financial contributions would fund parking restrictions in nearby streets and railway improvements. The car park management plan would include measures to direct guests and other visitors towards alternative parking arrangements when spaces are unavailable at the site, including public car parks.

Concerns have been raised by objectors in relation to the proposed loading bay. The Council's Strategic Transport and Highways Officers have raised no objections to this element of the proposal, with the details of signage and design to be secured through the use of planning conditions (completion of a Section 278 agreement for works within the highway, and the measures to secure adequate highway safety following the completion of a road safety audit). The proposed loading bay is considered to be of sufficient size to accommodate delivery vehicles and refuse trucks, and still allow for two-way traffic to flow along Livermead Hill. A condition is also recommended to secure a delivery management plan, to prevent the queuing of delivery vehicles within the highway and to ensure suitable arrangement for receiving deliveries if the coast road is closed.

The Council's Strategic Transport Officer raises no objections to the proposal, considering that it meets the requirements of the guidance contained in the NPPF and Policies TA1 and TA2 of the Local Plan.

Subject to the use of the aforementioned conditions, the completion of a S106 legal

agreement, and the provision of works to be secured through the completion of a Section 278 agreement, on balance, it is considered that the proposal would not result in unacceptable harm to highway safety or amenity, and that it would be in accordance with Policies TA1 and TA2 of the Local Plan, Policies TH9, THW5, THW6, and TTR2 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

## **8. S106**

The Council's Strategic Transport Officer has advised that a financial contribution towards sustainable transport, namely Torquay Railway Station, will be required given that the proposal will, to some extent, rely on the railway. A contribution will also be required towards the provision of parking restrictions in the surrounding area.

## **9. Other Considerations**

### *Designing-Out Crime*

The Police Designing-Out Crime Officer has raised concerns about the proposal in relation to its highways impact, and this is discussed above. Council officers are satisfied that, on balance, the proposal would not result in unacceptable harm to highway safety or amenity, subject to the use of conditions and the completion of a legal agreement. The potential for crime and disorder as a result of parking conflict is difficult to evidence; planning officers are satisfied that appropriate planning measures can be employed to reduce the potential for conflict as much as possible, bearing in mind that the site is located in a relatively accessible location with non-car options being available to future users. Ultimately, there is other legislation available to tackle anti-social behaviour.

Otherwise, no objections are raised subject to the use of a condition to secure a scheme of crime prevention measures, such as CCTV. It is recommended that this condition be imposed should planning permission be granted. Subject to the use of this condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and TH2 of the Torquay Neighbourhood Plan.

### *Railway Line*

Network Rail have raised no objections to the proposal subject to the use of conditions and informatives to ensure that the proposed development would not result in any harm to the safety, operation, or integrity of the railway. The conditions are recommended requiring the approval of details in relation to demolition, piling, excavation and earthworks, and drainage, and these can be imposed should planning permission be granted.

### *Ground Contamination and Stability*

The application is accompanied by a ground contamination report, with no contamination having been found. The Council's Community Safety officers have raised no objections to the proposal. Should planning permission be granted, a condition can be imposed requiring further action should contamination be found during the course of development. Subject to the use of this condition, the proposal is considered to be in accordance with Policy ER3 of the Local Plan.

The Council's Structural Engineer and Network Rail have requested details about the proposal's potential effects on the public highway and railway during the course of demolition and construction. Subject to the use of a suitable condition, the proposal is considered to be in accordance with Policy ER4 of the Local Plan.

### *Micro-Climates*

Objectors have raised concerns about the proposal's impacts on microclimates. The applicants have advised that the building has been designed with such considerations in mind and officers are satisfied that the proposal would not result in unacceptably harmful effects. Adverse microclimatic effects, such as the creation of wind at the street level, typically arise in relation to much taller buildings than the one under consideration, and even then in particular contexts. It is noted that buildings of a broadly similar height are located nearby and on higher ground, and there is a lack of evidence to suggest microclimatic effects are an issue in this location, or in relation to other, similar sized buildings located further along the coastline.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development.

The proposed development would make use of brownfield land, and would result in the more efficient use of that land, which is in a prominent location close to Torbay's waterfront. The site is identified as a Core Tourism Investment Area within the Development Plan and would be located in a broadly sustainable location, being within walking distance of a railway station and Torquay Town Centre; being accessible by bicycle with provision for staff and guest bicycle storage; and being located on a bus route. The application is supported by a green Travel Plan and an Energy Statement which proposes building, lighting and other measures to reduce the amount of energy required to power the development. The proposed parking arrangements would provision for electric vehicle charging points.

### **Planning Balance**

It is considered that the form, layout and design of the proposed hotel building

would make appropriate use of the site's size and location close to Torquay's seafront and tourism facilities within the Core Tourism Investment Area, allowing for an economically viable scheme. Subject to the use of appropriate conditions to secure suitable materials and landscaping, it is considered that the proposal would result in a high quality addition and visual enhancement at what is a prominent site within the Bay. The provision of modern accommodation and associated leisure facilities has the potential to improve Torquay's attractiveness as a visitor destination. The proposal would bring economic benefits and, in the absence of any unacceptable harm in the other material respects, the proposal is recommended for approval, subject to the attached conditions and the completion of a legal agreement.

### **Community Infrastructure Levy**

The proposal is for the addition to/improvement of an existing tourist facility, Torbay Council collect CIL payments for new dwellings and for larger out-of-town/district centre retail and food and drink developments. Therefore the proposal would not be liable for a CIL payment.

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

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

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

### **EIA**

Due to its scale, nature and location this proposal does not need to be screened under the Environmental Impact Assessment Regulations.

### **Proactive Working**

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has 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.

### **Conclusions**

The proposal would result in the modernisation of the existing site, with a significantly improved hotel and leisure facility. It is considered that the proposal would deliver visual, economic, and regeneration benefits in what is a Core Tourism Investment Area, and none of the harm identified is considered sufficient to outweigh these benefits. Even in the absence of the aforementioned benefits, none of the harm identified is considered sufficient to warrant the refusal of planning permission, given the mitigating factors discussed. The proposal is considered to be acceptable, having regard to the Local Plan, and all other material considerations, subject to the completion of a legal agreement and the use of planning conditions.

### **Officer Recommendations**

That planning permission be granted subject to the completion of a legal agreement to secure financial contributions towards sustainable transport and local parking restrictions, and compliance with the conditions detailed at the end of this report. The final drafting and addition of conditions, along with the negotiation and completion of the legal agreement, to be delegated to the Assistant Director for Planning and Transport.

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

- 1) No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:
  - a) A demolition method statement;
  - b) Details of any excavation, earthworks, or piling works including the method and equipment to be used;
  - c) The parking of vehicles of site operatives and visitors;
  - d) Loading and unloading of plant and materials;
  - e) Storage of plant and materials used in constructing the development;
  - f) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  - g) Wheel washing facilities;
  - h) Measures to control the emission of dust, litter and dirt during construction;
  - i) Measures to minimise noise nuisance to neighbours from plant and machinery;
  - j) Construction working hours being limited to 0800hrs to 1800hrs Monday to Friday, 0800hrs to 1300hrs on Saturdays, and at no time on Sundays, Bank or Public Holidays.

The approved Statement shall detail the ways in which harm to the safety, use, and integrity of the public highway and railway will be prevented, and shall be adhered to throughout the construction period of the development.

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies DE3, ER3, ER4, and TA1 of the Torbay Local Plan. These details are required pre-commencement as specified to ensure that building operations and vegetation removal are carried out in an appropriate manner to avoid nuisance to neighbouring uses and inconvenience to highway users.

- 2) The hotel hereby approved shall not be brought into use until the proposed arrangements for foul and surface water drainage have been provided in full, in accordance with the approved document entitled "Foul and Surface Water Drainage Strategies" (July 2019). Once provided, the approved drainage arrangements shall be maintained for the life of the development.

Reason: In the interests of sustainable drainage and in accordance with Policy ER1 of the Torbay Local Plan. These details are required pre-commencement as specified to prevent the installation of measures that might result in harm to the railway.

- 3) No development above damp proof course level shall take place until details of the proposed cladding materials (walls and roof) 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. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar. A sample panel shall be constructed on site and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.

Reason: To ensure a satisfactory form of development and to comply with Policy DE1 of the Torbay Local Plan.

- 4) Prior to the first use of the development hereby approved, details of a lighting strategy relating to the illumination of the building, public realm and associated areas shall be submitted to and approved in writing by the Local Planning Authority. The submitted lighting strategy shall give particular consideration to preventing light intrusion at neighbouring properties, and in relation to bat habitats and flyways. The development shall thereafter be undertaken in accordance with the approved details and shall be retained as such

indefinitely.

Reason: To ensure that the architectural quality of the building and its setting is highlighted through an appropriate scheme of lighting and to prevent harm to neighbouring occupiers and bats, and to comply with Policies DE1, DE3, and NC1 of the Adopted Local Plan.

- 5) Prior to the first use of the development hereby approved, 5 Schwegler type 2F or similar bat tubes and 5 bird nesting boxes shall be installed (in accordance with manufacturer's instructions for correct siting and installation) on the new hotel and retained at all times thereafter, in-line with the mitigation measures outlined within the submitted Bat and Breeding Bird Survey.

Reason: To ensure that the development duly considers protected species and biodiversity, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

- 6) Notwithstanding the submitted landscaping details, prior to the first use of the hotel hereby approved, details of all proposed hard and soft landscaping shall 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.

- 7) Prior to the first use of the development hereby approved, a Travel Plan and Car Parking Management Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Travel Plan shall set out how at least 30% of the development's potential users can gain access by foot, cycle or public transport, and how this will be implemented and monitored including SMART targets and an annual review. The Travel Plan shall be continually monitored by a Travel Plan Coordinator (TPC) appointed to ensure that it meets its objectives and targets. In the event that the objectives and targets of the Travel Plan are not met, the Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Travel Plan or updated Travel Plan, shall be made available to the Local Planning Authority upon request during normal business hours and the contact details of the TPC shall be provided in all iterations of the Travel Plan. The Car Parking Management Strategy shall include details of car parking allocation including

details of staff and visitor parking, along with the proposed measures for accommodating guest and visitor vehicles when the on-site car park is at full capacity. The development shall, at all times, be operated in accordance with the approved details.

Reason: In the interests of road safety and sustainability to encourage walking, cycling and public transport use by staff and visitors in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

- 8) Prior to the first use of the development hereby approved, a delivery management plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall include details about the proposed organisation of deliveries to prevent queuing of delivery vehicles within the public highway and addressing the proposed arrangements for deliveries during seafront closures. The hotel shall be operated in accordance with the approved details at all times.

Reason: In the interests of road safety and in accordance with policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

- 8) Prior to the first use of the development hereby approved, a road safety audit shall be submitted to and approved in writing by the Local Planning Authority, detailing the proposed measures for ensuring pedestrian and other road-user safety along the public highway around the site. The approved measures shall be implemented in full prior to the first use of the development.

Reason: To provide safe and sustainable highway arrangements in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

- 9) Prior to the first use of the development hereby approved, the parking facilities, manoeuvring areas, and electric charging points shown on the approved plans shall be provided and thereafter permanently retained for the use of vehicles associated with the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with policy TA2 and TA3 (and associated appendix F) of the Torbay Local Plan 2012-2030.

- 10) The development hereby approved shall not be brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway, as indicated on the approved plans. The development shall not be brought into use until the S278 works have been completed to the satisfaction of the Local Highway Authority.

Reason: To provide safe and sustainable access to the site for drivers, cyclists

and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

- 11) Prior to the first use of the development hereby approved, details of signage in relation to the proposed access and egress arrangements shall be submitted to and approved in writing by the Local Planning Authority. The southern vehicular access point shall be used as an entrance only, and the northern egress point shall be used for exiting the site only. The approved signage shall be installed prior to the first use of the development, and shall be permanently retained thereafter.

Reason: To provide safe and sustainable access to the site for drivers, cyclists and pedestrians in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan.

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

Reason: In interests of visual and residential amenity and in accordance with Policy DE1 of the Adopted Torbay Local.

- 13) Prior to the first occupation of the development hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided. 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.

- 14) The use of the proposed loading bay at Livermead Hill, including all deliveries and collections, shall be limited to the hours of 0800hrs to 1800hrs Monday to Friday, and 0800hrs to 1300hrs on Saturdays. No such deliveries or collections shall take place on Sundays, Bank, or Public Holidays.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

- 15) The development hereby approved shall not be brought into use until details of the means of ventilation for the extraction and dispersal of cooking smells/fumes, including details of its method of construction, odour control measures, noise levels, its appearance and finish have been submitted to and approved in writing by the Local Planning Authority. The approved scheme

shall be installed before the use hereby permitted commences and thereafter shall be permanently retained.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

- 16) The development hereby approved shall not be brought into use until an assessment to show that the rating level of any plant and equipment, to be installed as part of this development, will be at least 5 dB below the background level has been submitted to and approved in writing by the Local Planning Authority. The assessment must be carried out by a suitably qualified acoustic consultant/engineer and be in accordance with BS4142: 2014 (methods for rating and assessing industrial and commercial sound). All plant installed shall be operated in accordance with the approved details for the life of the development.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

- 17) Prior to the first use of the development hereby approved, a scheme of measures to protect the privacy of neighbouring occupiers shall be submitted to and approved in writing by the Local Planning Authority. The submitted measures shall include obscure glazing and privacy screens in relation to openings, balconies, and terraces that may permit overlooking towards neighbouring properties, particularly those located to the south and north. The approved measures shall be fully installed prior to the first use of the development and shall thereafter be retained for the life of the development.

Reason: To protect neighbouring occupiers from unacceptable levels of overlooking, in accordance with Policy DE3 of the Torbay Local Plan.

- 18) No access to the roof-top terrace shall be allowed between the hours of 2200hrs and 0800hrs daily, and no audio equipment shall be used in this outdoor area at any time.

Reason: To protect neighbouring occupiers from noise disturbance in accordance with Policy DE3 of the Torbay Local Plan.

- 19) Prior to the first use of the development hereby approved, a scheme of measures for designing-out crime shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully installed prior to the first use of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Torbay Local Plan,

and Policy TH2 of the Torquay Neighbourhood Plan.

- 20) Should any contamination be found during the course of the development, all construction works shall cease until such time as a scheme of remediation has been submitted to and approved in writing by the Local Planning Authority. The development shall then proceed in full accordance with the approved details.

Reason: In the interests of addressing potential contamination in accordance with Policy ER3 of the Torbay Local Plan.

- 21) The restaurant, roof-top bar, and spa hereby approved shall only be open to hotel guests, and shall not be open to the general public at any time.

Reason: In the interests of ensuring adequate parking arrangements to serve the development, in accordance with Policy TA3 of the Torbay Local Plan.

### **Informative(s)**

01. Town and Country Planning (General Development Procedure) (Amendment) Order 2003. The proposed development has been tested against the following policies of the Development Plan and, in the opinion of the Local Planning Authority, is not in conflict with the following policies:

02. 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). Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

03. Raliway

#### **SAFETY**

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3months notice before works

start. assetprotectionwestern@networkrail.co.uk

## SITE LAYOUT

It is recommended that all buildings be situated at least 2 metres from the boundary fence, to allow construction and any future maintenance work to be carried out without involving entry onto Network Rail's infrastructure. Where trees exist on Network Rail land the design of foundations close to the boundary must take into account the effects of root penetration in accordance with the Building Research Establishment's guidelines.

## SIGNALLING

The proposal must not interfere with or obscure any signals that may be in the area.

## NOISE

Network Rail would remind the council and the applicant of the potential for any noise/ vibration impacts caused by the proximity between the proposed development and the existing railway, which must be assessed in the context of the National Planning Policy Framework (NPPF) and the local planning authority should use conditions as necessary.

The current level of railway usage may be subject to change at any time without prior notification including increased frequency of trains, night time train running and heavy freight trains.

There is also the potential for maintenance works to be carried out on trains, which is undertaken at night and means leaving the trains' motors running which can lead to increased levels of noise.

## LANDSCAPING

It is recommended no trees are planted closer than 1.5 times their mature height to the boundary fence. The developer should adhere to Network Rail's advice guide on acceptable tree/plant species. Any tree felling works where there is a risk of the trees or branches falling across the boundary fence will require railway supervision.

## PLANT, SCAFFOLDING AND CRANES

Any scaffold which is to be constructed adjacent to the railway must be erected in such a manner that, at no time will any poles or cranes over-sail or fall onto the railway. All plant and scaffolding must be positioned, that in the event of failure, it will not fall on to Network Rail land.



## LIGHTING

Any lighting associated with the development (including vehicle lights) must not interfere with the sighting of signalling apparatus and/or train drivers vision on approaching trains. The location and colour of lights must not give rise to the potential for confusion with the signalling arrangements on the railway.

## SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

### **Relevant Development Plan Policies**

DE1 – Design  
ER1 – Flood Risk  
ER2 – Water Management  
ER3 - Contamination  
ER4 – Ground Stability  
NC1 - Protected sites - internationally import  
TO1 - Tourism, events and culture  
TA2 - Development access  
TA3 - Parking requirements  
DE4 - Building heights  
DE3 - Development Amenity  
C4 - Trees, hedgerows and natural landscape  
SS1 - Growth Strategy for a prosperous Torbay  
SS3 – Presumption in Favour of Sustainable Development  
SS4 - The economy and employment  
SS11 – Sustainable Communities  
TC5 - Evening and night time economy  
TH2 – Designing Out Crime  
TH8 – Established Architecture  
TH9 – Parking Facilities  
TE1 – Tourism Accommodation on Brownfield Sites  
THW5 – Access to Sustainable Transport  
THW6 – Cycle Storage and Changing Facilities  
TTR2 – Sustainable Communities