



Application Site Address	Wolverton And Mowbray, Asheldon Road, Torquay TQ1 2QN
Proposal	Conversion to seven apartments, minor demolition and alterations, and formation of one dwelling to the rear, together with associated works (As revised by plans received 09.08.2019).
Application Number	P/2019/0323
Applicant	Mr Richard Hitchcock
Agent	Mr Jamie Allaway - Co Create Ltd
Date Application Valid	10.05.2019
Decision Due date	09.08.2019
Extension of Time Date	18.10.2019
Recommendation	Approval: Subject to the conditions detailed below. The final drafting of conditions and the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport.
Reason for Referral to Planning Committee	Originally major development / level of objections
Planning Case Officer	Scott Jones

Location Plan –



Site Details

The site is the plot of a large detached Victorian Villa that currently holds two dwellings within it, which is set off Asheldon Road in Torquay. The Villa sits towards the front of the plot near to the adjacent highway with a large tree-lined garden to the rear. There are two vehicular access points, the main Villa (Wolverton) has a gravelled drive that runs along the side of the building adjacent to the principal elevation of the building. The dwelling in the former service wing (Mowbray) has a visually prominent flat-roofed garage and hardstand close to the adjacent highway where 5-6 metres of the front stone boundary wall has been removed.

In terms of heritage assets the site sits in the Lincombes Conservation Area and the draft appraisal map of the Conservation Area identifies the Villa as a key building and part of a building group of architectural importance or which make a significant contribution to the townscape. It is noted that the nearest listed building is the Grade 1 St Matthias Church to the south off Babbacombe Road, and the nearby Kent's Cavern Scheduled Ancient Monument / SSSI sits to the south west off Ilsham Road.

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

Description of Development

Following the receipt of revised plans the application seeks full planning permission for the conversion of the existing Villa to form seven apartments (including limited demolition, alterations and extensions), together with the formation of a single-storey detached dwelling to the rear (reduced from four apartments provided over two floors) within the garden, and associated works to support the creation of these units.

In regard to the conversion of the Villa the proposal includes the removal of the existing modern extension that sits off the southwestern principal elevation and its replacement with a smaller extension, and the removal of the garage and porch extension that fronts the public highway, which is to be replaced with a smaller single-storey pitched-roof extension. The works linked to the conversion also include the replacement of modern windows with more traditional timber windows, the reinstatement of a section of the stone boundary wall to the front, and the provision of a glass-enclosed terrace to the rear over an existing sub-level extension.

The new building proposed to the rear has, following the receipt of revised plans, been reduced from a two-storey four-apartment block, to a single-storey flat-roofed dwelling, over a reduced footprint. The building is finished in zinc metal sheeting. The building is located towards the north-eastern boundary of the plot with its principal elevation facing south west across the width of the plot.

In regard to associated works within the plot (in addition to the proposed reinstatement of a section of the front boundary wall previously detailed) the proposal includes the provision of permeable pavements to the front and side of the Villa to provide a courtyard and shared parking facilities. There are 9 assigned car parking spaces, giving one per apartment and two per house, together with 2 visitor spaces. There is also a proposed bin store close to the vehicular entrance abutting the stone boundary wall and a proposed cycle store to the rear of the permeable parking area. Both structures are principally constructed in timber. The proposed layout includes the removal of a

number of small trees and shrubs, mainly towards the front of the plot, with the mature trees to the rear all maintained.

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

Pre-Application: DE/2018/0069 for the formation of fifteen dwellings to the rear: The principle of residential development in this location is considered acceptable however there are a number of concerns relating to the proposal. In the proposals current form, given the proposals unacceptable impact on the Conservation Area; the need to achieve adequate separation between buildings and suitable amenity space / parking / refuse storage areas, it appears that the proposal would result in an over development of the site, and that the number of units ought to be reduced to ensure these concerns are adequately addressed.

Applications: None.

Summary of Representations

A total of 20 public representations (including one from the Wellswood Community Partnership) have been submitted objecting to the original and revised scheme. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues/ Material Considerations section of this report.

The concerns raised in the objections are as follows:

Revised scheme:

- Presents only minor changes to the plan

Original scheme:

- Support the conversion of the original building but object to the garden

- development due to overdevelopment and the precedent
- Loss of light and overlooking from the front extension to Mowbray
- Impact upon the coach house from the 2-storey garden building
- Overdevelopment
- Impact upon the Conservation Area
- Traffic impact
- Insufficient parking
- 4 flats in the rear garden is out of character
- Impact upon pedestrians
- No need in Wellswood
- Scale of units too small

Summary of Consultation Responses

Torquay Neighbourhood Forum: The Torquay Neighbourhood Plan Forum object to the scheme. The new build structure within the grounds is out of character and over development. Parking provision appears inadequate and would compound the problems associated with vehicles parking in Asheldon Road. If the new build structure was removed and adequate parking put in place for the flats, then the conversion would be acceptable.

Highway Authority (update comments on the revised proposal for 8 units): On a 30mph road Highways would require a visibility splay of 43m x 2.4m, this does not appear to have been met. Should the applicant demonstrate that the speed readings are lower than 30mph, then the visibility arms can be reduced.

Torbay Council Drainage Engineer: Standing advice applies. Providing the developer has identified on the flood risk assessment that surface water drainage will discharge via a sustainable drainage system such as soakaways, no objections on drainage grounds to planning permission being granted providing the infiltration testing and soakaway design are carried out in accordance with BRE365 and the design is undertaken for 1 in 100 year storm event plus climate change. Recommended a condition in these circumstances as follows:

In accordance with the submitted flood risk assessment received, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 30% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development. Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

Torbay Council Interim Heritage Officer (Update comment on revised scheme for 8 units): The site is located in the Lincombes Conservation Area where legislation requires that 'special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area'. The Conservation Area appraisal map of the identifies the Villa the subject of this application as a key building and part of a building group of architectural importance or which make a significant contribution to the townscape.

The nearest listed building the Grade 1 Listed St Matthias Church is approximately 200m to the south west, and the nearby Kent's Cavern Scheduled Ancient Monument / SSSI is approximately 250m to the south east. Section 66 of the Listed Buildings Act requires to have special regard to the desirability of preserving (among the other things listed in that section) the setting of a listed building and similar provisions apply to the setting of Schedule Ancient Monuments. The new build element of the proposals would be well concealed from most public vantage points and there is no significant inter-visibility between the proposed new build development and listed building or scheduled ancient monument. Whilst the new build element would have a very minor impact upon the overall density of the area and introduces an element of modern design it would not cause any harm to the setting of the designated heritage assets.

With regard to the Conservation Area the proposals directly concerning the Villa are welcomed and should serve to enhance the character of the building and thus represents a positive impact which will also serve to enhance the character and appearance of the Conservation Area.

With regard to the development within the rear garden area, following significant negotiations this would now consist of a single storey dwelling. The proposed structure, would have a flat-roofed, will rise to a similar height to that of the adjacent stone boundary wall to the north, which will limit the potential for public views to the building from the highway across an adjacent residential plot. As the garden area is secluded, being well screened by a mixture of buildings, walls and trees, the modern form of the development will not, in my view, cause harm the wider character and appearance of the Conservation Area, especially from public vantage points.

In terms of design the approach is clearly to seek to make the dwelling a secondary buildings within the villas grounds. Its form is modern but modest, and the siting of the dwelling maintains the large open rear garden of the villa effectively. The plans illustrate some landscaping which will further serve to reduce the impact of the new dwelling unit.

In conclusion, it is considered that the revised proposals are well conceived and weighing together the proposed new dwelling with the enhancements to the Villa I consider that the proposal will serve to preserve the overall character and appearance of the special qualities of the Conservation Area, and from public vantage points in particular the scheme as negotiated would represent an enhancement to the Conservation Area.

Torbay Council Community Safety Team (Comment on revised scheme for 8 units): Confirm no objection to the above planning application subject to the inclusion of a construction management condition to secure that no development shall take place until a site specific Construction/Demolition Management Plan has been submitted to and been approved in writing by the Council that must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust.

Torbay Council Arboricultural Officer (Comment on revised scheme for 8 units): The removal of the hammer head is a positive step to reduce pressure on the root protection areas (RPAs) in the southern corner. The design and access statement

refers to 'Geocell' – a proprietary engineering solution to creating vehicular/pedestrian access over roots of trees and can be used in the right circumstances. The above have provided mitigation to concerns over direct pressure on the trees. The existing building does not appear to be unduly influenced by receiving sufficient direct sunlight however the proposed apartments will be in shade during the afternoon but the shade is cast by the existing building.

Conclusion: The revised proposal reduces the impact on the significant trees within the site.

Recommendation: The site is suitable on arboricultural merit with suitably worded conditions regarding a Tree Protection Plan to be submitted prior to commencement, and for an Arboricultural Method Statement (AMS) to be submitted prior to commencement - with particular reference (but not exclusive) to pre-commencement site meeting, signing on of contractors onto the AMS, use of root protection surfaces, site monitoring timings.

South West Water (Update comments on the revised proposal for 8 units): South West Water has no objection or comment.

Police Designing Out Crime Officer (Update comments on the revised proposal for 8 units): As the revised scheme is for less than 10 dwellings there is no further comment.

(Comments on the initial proposal for 11 units): The Police are unable to fully support the above application at this stage due to the proposed on-site parking provision. It is considered that 12 parking spaces for 11 dwellings seems wholly inadequate, exacerbated further given that the majority of the dwellings will have 2 bedrooms, which are likely to attract more than one vehicle per dwelling. It is respectfully requested that prior to determination the planning authority are satisfied that the level of parking for the proposed new development is considered sufficient when balanced against the proposed accommodation schedule for the site.

As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority, advice is provided for the applicant to ensure compliance.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Residential Development
2. Design and Visual Impact
3. Residential Amenity.
4. Impact on Highway Safety.
5. Ecology and Biodiversity
6. Drainage and Flood Risk

1. Principle of Residential Development

In terms of the principle of a residential use Policy H1 of The Local Plan states that proposals for new homes within the built-up area (as is the case in this instance) will be supported subject to consistency with other policies in the Local Plan.

In terms of The Neighbourhood Plan Policy TS4 states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. It furthers that development of greenfield sites can have an adverse impact through the loss of green space, so will be supported where it is an allocated site within The Neighbourhood Plan or the loss is required to meet the strategic economic policies within The Local Plan.

In light of the broad aspirations of Policies H1 and TS4 the principle of residential use on the site is considered acceptable, subject to broader policy considerations. It is noted that the site is well located for housing as it is in a sustainable location that has good access to shops and other services, transport links and recreational areas, within an area that already has a residential character. This context supports the principle of a residential use being acceptable.

2. Design and Visual Impact (including heritage considerations)

The site is located at the northern edge of the Lincombes Conservation Area and the draft appraisal map of the Conservation Area identifies the Villa as a key building and part of a building group of architectural importance or which make a significant contribution to the townscape. The nearest listed building is approximately 200m to the south west, which is the Grade 1 Listed St Matthias Church, and the nearby Kent's Cavern Scheduled Ancient Monument / SSSI is approximately 250m to the south east. In this instance it is important to consider whether the form of development would sit comfortably in its surrounds and would not adversely affect the setting of the Conservation Area as, due to the physical disconnect, the settings of nearby listed buildings or the Scheduled Ancient Monument would not be affected.

Policy SS10 of the Local Plan requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance. Policy TT2 of The Neighbourhood Plan cites that within designated Conservation Areas development proposals requiring consent will be supported in principle (subject to other policies in the Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment. In addition the more generic Policy TH8 cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. This is aligned with the general design policy within The Local Plan where Policy DE1 seeks development to be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest.

The policies cited above are aligned with guidance contained within the NPPF which promotes good design and also seeks local planning authorities in decision making to take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; the positive contribution that conservation of heritage assets can make to sustainable communities

including their economic vitality; and the desirability of new development making a positive contribution to local character and distinctiveness.

In regard to the development relating to the existing Villa following the receipt of revised plans the scheme is considered to present a well-considered scheme of enhancement that would present a clear improvement to its current appearance and enhance the contribution it makes to the Conservation Area. A number of deleterious features are addressed as part of the conversion scheme, including the removal of two extensions and their replacement with smaller and far more appropriately formed and detailed additions. In regard to this the removal of the combined garage and porch-type additions adjacent to the road is a particular benefit as this ill-formed combination sits in a very prominent location and is possibly the most injurious modern element to the building. The replacing addition is smaller with appropriate timber windows under a slate pitched roof, and it will be partially screened by the reinstatement of the missing section of the stone boundary wall fronting the highway. Further beneficial works are principally the removal of UPVc casement windows and their replacement with more traditionally formed timber windows.

In regard to the development within the rear garden area the revised plans have reduced this element from a two-storey structure that would hold four apartments to a single storey dwelling over a smaller footprint. The reduced scale of building has largely addressed officer's previous concerns relating to the design and visual impact of this element. The structure, which is flat-roofed, will rise to a similar height to that of the adjacent stone boundary wall to the north, which will limit the potential for public views to the building from the highway across an adjacent residential plot. As the garden area is secluded, being well screened by a mixture of buildings, walls and trees, the modern form of the development will not be detrimental to the wider character and appearance of the Conservation Area.

It is noted that the Neighbourhood Forum oppose this element of the scheme and cite it as being out of character and over development. In regard to these concerns the building is set at the edge of the plot and will retain a large element of open garden, which will limit the impact upon the garden setting of the building, and it will not overdevelop what is a large Victorian plot. Its height is now limited and is akin to that of a domestic incidental building that dwellings are generally permitted to build without formal consent were it is for incidental purposes. Its scale is not considered to differ significantly from what is typical in terms of secondary buildings within domestic plots. Its form is modern and it clearly doesn't seek to mimic the host building or a more traditional form of garden building. This holds some tension with the Neighbourhood Plan aspiration for architecture to reflect the identity of its surroundings, but the impact is considered very limited within such a secluded and well screened context and the modern design does hold some merit as a contrasting element. It is considered that this aspect of the proposal, whilst having a number of visual merits, would result in less than substantial harm to the conservation area, and that it would be contrary to Policy TH8 of the Neighbourhood Plan, however, there are public benefits and other material considerations that outweigh this harm, namely the provision of housing to address the area's needs and the aforementioned visual enhancements to the villa building.

In regard to the associated development the parking is retained to the side of the Villa which enables the garden setting to the rear to be retained. The revised plans which removed three units from the scheme permitted a demonstrable improvement to the parking by removing a large turning head that was set past the rear building line of the Villa. In terms of detail the use of pavements throughout the parking area is welcomed over, for example, an expanse of tarmac, and this will somewhat soften the courtyard's appearance. Notwithstanding this the setting will be impacted slightly due to the removal of trees and shrubs to secure the parking, bin store etc, together with the amount of cars that will populate the area, as the current expanse of gravel sits quietly behind the established planting. In terms of other incidental development the bin and cycle stores are timber-based structures and will have little impact upon the character of the plot and its contribution to the Conservation Area.

When considering the proposal as a whole the scheme is considered well detailed and takes demonstrable steps to enhance the Villa by addressing the various deleterious features and proposing more harmonious additions and alterations, which as a package is considered to secure an enhancement in terms of its contribution to the character and appearance of the Conservation Area. This conclusion is aligned with the advice received from the Council's Interim Heritage Advisor. As such the proposal is considered substantially in accordance with design and heritage policies contained within the Development Plan and guidance contained within the NPPF, and where there is a deviation, other material considerations outweigh this.

The above conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area.

3. Residential Amenity

Policy DE3 of The Local Plan states that all development should be designed to provide a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding occupiers. The Neighbourhood Plan is largely silent on the matter of amenity. The NPPF guides (Para 127) that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

In respect of future occupiers the internal living spaces are suitably scaled and accord with the minimum space standards outlined within Policy DE3. The units also all benefit from adequate outlook and will receive adequate levels of natural lighting to key living spaces. In regard to outdoor amenity space certain apartments at ground floor level will benefit from the use of terraces or a courtyard, but more broadly the proposal retains a large garden for communal use. This will provide outdoor space that accords with and exceeds the expectations outlined within Policy DE3 where apartments should, where possible, be afforded 10sqm of outdoor space either privately or as part of a larger communal offering. The dwelling to the rear would be provided with a private garden delineated by planting, which exceeds the 20sqm expected within the Neighbourhood Plan, which provides more up-to-date guidance than The Local Plan, which seeks 55sqm per dwelling. In terms of the broader residential elements the occupiers will be provided with on-site parking, and

designated cycle storage and waste storage facilities. These facilities complete what is considered to be a good standard of residential environment for future occupiers.

In respect of neighbouring amenity the conversion of the Villa, there are no additional windows proposed within the upper floor and the extensions proposed are modest in scale and single-storey in height. There would hence be no undue impact upon privacy, light or outlook afforded neighbouring occupiers. In regard to the dwelling proposed within the rear, the building would be single storey and would rise to a height closely aligned to that of the adjacent boundary wall with the neighbouring property (within 150mm of the wall height). The principal outlook would be south across the communal gardens away from this adjacent border. Due to its scale and context there would be no impact upon the amenities of neighbouring occupiers.

More generally in terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance for existing occupiers in the area. The retention of the parking to the side helps retain the rear of the plot as a more tranquil area devoid of vehicular noise and light-spill from headlights.

Finally in terms of the temporary impacts of the construction phase there will naturally be some short-term impacts, however such impacts are not unusual and the effects can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition.

In terms of the standard of accommodation to be provided for future occupiers, and in terms of the proposal's impacts on neighbours, it is considered to be in accordance with Policies DE1 and DE3 of The Local Plan and guidance contained within the NPPF.

4. Impact on Highway Safety

Policy TA3 and Appendix F of The Local Plan provides key policy guidance for residential developments. Houses have an expected requirement of 2 spaces per dwelling and apartments have an expectation of 1 space each, with some degree of visitor parking. There is also an appreciation that these standards can be reduced in more accessible and well-connected locations such as town centres. There is further advice on the provision of disabled parking and electric charging points. The Neighbourhood Plan supports levels of car parking aligned with those outlined within The Local Plan through Policy TH9.

The NPPF states that in assessing specific applications for development it should be ensured that a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

In regard to access considerations the removal of the secondary access that currently serves Mowbray is considered a positive change, as use of the garage and hardstanding currently presents poor visibility with vehicles entering and exiting the garage if used, and the hardstanding, also if used, is arranged in a way that may result in vehicles overhanging the pedestrian footpath. In regard to the proposed access point the existing entrance is to be widened and one of the pillars relocated to improve visibility for vehicles exiting the site. The Highway Authority have raised concerns that for a 30mph road the standard visibility splay is 43m in each direction (2.4m back from the highway) does not appear to be achievable. However, achieving these splays would always be challenging given the degree of street parking in the locality.

It is noted that street parking is unrestricted and appears prevalent within the area and there are a number of access points with limited visibility and/or visibility that appears limited by what seems to be quite consistent levels of street parking. The residential character of the road, its curving nature, and the level of street parking appears to provide an environment that necessitates due care when entering and exiting sites in the area. On balance the concern regarding the increase in usage of an improved but non-compliant (to the Torbay Highway Design Guide) access, is to a degree mitigated by the removal of the second access and the improvement of the retained access, together with the character of the street and prevalence of similar arrangements within the immediate context.

On balance, officers consider it reasonable to accept a non-compliant access in this particular situation. Any improved visibility splay is likely to be obstructed by parked cars. Similar access points currently operate nearby without causing any known safety issues, and the arrangement is unlikely to cause a demonstrable safety issue. Again, the proposal would result in improvements to the existing arrangements. The proposal is considered acceptable, bearing in mind the NPPF guidance that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety.

In regard to parking, the proposal is compliant with the expectations outlined within The Local Plan and The Neighbourhood Plan. The development provides 11 spaces to serve 7 apartments and one house, with 9 assigned spaces and 2 visitor spaces. This accords with the policy expectations for 1 space per apartment with parking for visitors and 2 spaces for a dwelling. Notwithstanding concerns raised within representations regarding parking pressure the proposal is considered policy compliant and acceptable on parking grounds. It is noted that policy guidance seeks electric charging points (2) and disabled parking provision (1) and these particular elements should be secured by a planning condition.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe (Para 109), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF.

5. Ecology & Biodiversity

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 170).

The application is accompanied by an ecological assessment and a reptile survey, as recommended by the initial assessment. The ecological assessment concluded that aside the requirement for a reptile survey (to consider the presence and potential impact) there were no other potential ecological impact that required mitigation. It furthered that enhancements should be secured to include the provision for bats and nesting birds. The subsequent reptile survey states that no reptiles were recorded at the proposed development site and as such it is reasonable to conclude that they are absent from the habitat, although precautionary measures should be followed regarding management of the vegetation height and precautionary groundwork clearance.

In regard to trees the proposal maintains the mature specimens to the rear of the plot and proposes a revised footprint for the garden building that improves the spatial arrangement proposed. The revised proposal also removes the turning head from behind the building line which reduces the conflict with trees towards the side of the plot. The Council's Arboricultural Officer has removed an initial objection to the scheme and considers that the proposal is now suitable for approval subject to recommended conditions.

Having considered the submitted assessments, subject to conditions to secure enhancement features and tree protection measures, as suggested, the development is considered acceptable on ecological and biodiversity grounds for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF.

6. Flood Risk and Drainage

The site sits in an area with a low risk (Flood Zone 1) of flooding, however it does sit within a Critical Drainage Area as designated by the Environment Agency.

A Flood Risk Assessment has been submitted that confirms the scheme proposes a site-wide approach of adopting permeable materials and SUDS systems.

The Council's drainage has not commented on the scheme as the matter can be considered against standing advice. Standing advice in this instance cites that providing the developer has identified on the flood risk assessment that surface water drainage will discharge via a sustainable drainage system such as soakaways, no objections on drainage grounds to planning permission being granted providing the

infiltration testing and soakaway design are carried out in accordance with BRE365 and the design is undertaken for 1 in 100 year storm event plus climate change. As detailed the proposal identifies a sustainable urban drainage solution will be used and hence the proposal accords with standing advice. A planning condition should be attached to secure this method of drainage unless otherwise agreed by the Local Planning Authority.

The proposal is for the reasons above considered in accordance with Policies ER1 and ER2 of The Local Plan and advice contained within the NPPF.

Sustainability

Policy SS3 of The Local Plan establishes the presumption in favour of sustainable development. The site provides housing in a sustainable location close to shops, schools and bus routes.

Local Finance Considerations

S106: Not Applicable

CIL: In terms of the Community Infrastructure Levy (CIL) new chargeable floor space will be liable. For sites of 4-14 dwellings within charging zone 1 the rate is £70 per square metre of new gross internal floor space.

EIA/HRA

EIA:

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

HRA:

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

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a positive impact overall and help with the supply of much needed housing. There is some minor discord in terms of the access and general design guidelines, and certain elements of the scheme will have a minor impact upon the verdant quality of the plot. However these issues are considered minor and the overriding accordance with the Development Plan, and the NPPF when considered in the round, is deemed to provide a proposal that is acceptable on balance.

Housing Supply: The Council has a housing land supply which is below the 5 year supply sought by government. By providing 6 net new units the proposal will help with the delivery of much needed housing with a form of development that is considered to accord with the Development Plan and NPPF when read as a whole.

Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date Development Plan without delay.

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

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

In this instance substantial amendments have been secured to reduce the extent of development to the rear in order to reduce its resultant impact upon the setting, together with improvements to secure improvements to form of extensions proposed and the wider window stock. The Council has concluded that this application is now acceptable for planning approval.

Conclusions and Reasons for Decision

For the reasons stated within this report the proposal is considered to be in overriding accordance with the provisions of the Development Plan. The NPPF guides that development proposals that accord with an up-to-date development plan should be approved without delay. There are no material considerations that suggest that a decision should be depart from that which has been concluded against the Development Plan.

It should be noted that the NPPF (Para 38) guides that Local Planning Authorities should approach decisions on proposed development in a positive and creative way and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. It also furthers that decision-makers at every level should seek to approve applications for sustainable development where possible. There are, for the reasons within this report, no substantive reasons to not grant planning permission.

Officer Recommendation

Approval: Subject to the conditions detailed below.

The final drafting of conditions and the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning and Transport.

Conditions

1. Construction method statement

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

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

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

2. Tree Protection

Prior to the commencement of development a Tree Protection Plan and an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The detail shall make reference to (but not be limited to) to pre-commencement site meeting, signing on of contractors onto the AMS, use of root protection surfaces, and site monitoring timings. The approved detail shall be adhered to throughout the construction phase of the development.

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

3. Landscape and Ecological Management Plan (LEMP)

Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, shall be submitted and shall include, but not be limited to, the following.

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Reason: To secure a satisfactory form of development in accordance with Policies SS8, C4 and NC1 of the Torbay Local Plan 2012-2030.

4. Drainage

In accordance with the submitted flood risk assessment received, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

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

5. Detailed design

Prior to the commencement of development above damp proof course level (excluding demolition) details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. A sample of the proposed roof slate and comparison detail of the existing slate,
2. Detailed drawings of all proposed windows and doors, including reveals and means of opening,
3. A sample of the proposed cladding for the garden building, and
4. All fencing and other mains of enclosures.

Reasons: In order to protect visual amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy TT2 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

6. Parking provision

Prior to the first occupation of the development details confirming the location and provision of at least 1 disabled parking space and 2 electric charging points shall be submitted to and approved in writing by the Local Planning Authority. The dwellings and apartments hereby approved shall not be occupied or brought into use until the parking spaces hereby approved (including the approved disabled space and charging points approved pursuant to this condition) and the manoeuvring areas have been provided in full. These elements shall thereafter be retained for the use of the associated dwellings for the life of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

7. Cycle provision

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

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

8. Waste provision

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

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

9. PD

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 (or any Order revoking or revising that Order) the following forms of development are not permitted, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority;

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

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development and outdoor amenity spaces within a restricted site, in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030.

10. Access changes and closure of current access and provision of wall

Prior to the first occupation of the development (i) the existing vehicular access to Mowbray shall be removed and the associated wall rebuilt to a height and in a finished form that matches the existing wall. The wall shall then be maintained as such at all times thereafter. And (ii) the amendments to the retained access shall be completed, and shall maintain a form of wall and pillar to match that which exists, unless otherwise submitted to and approved in writing by the Local Planning Authority.

Reason: To secure improvements to the plot and an acceptable form of development within the Lincombes Conservation Area, and for reasons of highway safety, in accordance with Policies SS10, DE1 and TA2 of The Torbay Local Plan 2012-2030, Policy TT2 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

11. Improvements to the Villa

Prior to the first occupation of the development all approved works to the Villa shall be completed in accordance with the details hereby approved and/or approved as details pursuant to conditions attached to this permission.

Reason: To secure improvements to the Villa and an acceptable form of development within the Lincombes Conservation Area, in accordance with Policies SS10 and DE1 of The Torbay Local Plan 2012-2030, Policy TT2 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

12. Nesting season - birds

All demolition and/or the removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged.

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

13. Ground clearance - reptiles

Ground clearance should be carried out with caution in accordance with the submitted Reptile Presence/Likely Absence Survey & Mitigation Strategy (Green Lane Ecology) and if any reptiles are encountered work should stop and a suitably qualified ecologist should be contacted for advice.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

14. Biodiversity measures

Prior to first occupation of the development measures to enhance biodiversity shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be installed prior to the first occupation of the development and maintained as such at all times thereafter.

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

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS9 - Green Infrastructure
SS10 - Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management

W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH8 - Established architecture
TH9 - Parking facilities
TT2 - Change of Use in Conservation Areas and Listed Buildings
TE5 - Protected species habitats and biodiversity
TH2 - Designing out crime
TTR2 - Sustainable Communities
THW4 - Outside space provision
THW5 - Access to sustainable transport