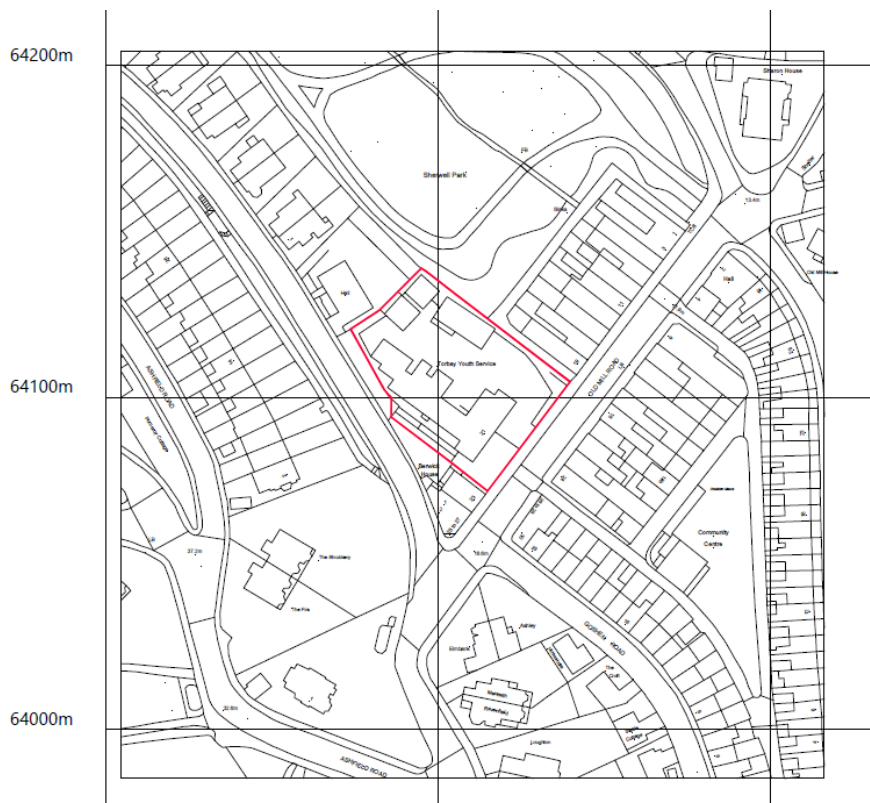




Application Site Address	21 Old Mill Road Torquay TQ2 6AU
Proposal	Conversion of the former Cockington Primary School to create five two-bedroom apartments; one three-bedroom apartment; one one-bedroom apartment; and four two-storey, three-bedroom dwellings.
Application Number	P/2019/0919
Applicant	Cockington School House Limited
Agent	Miss Faye Stewart – Bailey Partnership
Date Application Valid	01/10/2019
Decision Due date	31/12/2019
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further 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	The application has been referred to Planning Committee due it being of a major nature.
Planning Case Officer	Emily Elliott

**Location Plan:**



### **Site Details**

The site is occupied by a 19<sup>th</sup> Century former school building, three temporary classrooms and associated car parking. There is an existing vehicular access to the site from Old Mill Road. The site area is 2,258 square metres in area and lies on the north-western side of Old Mill Road. The site is adjacent to, but not within, the Chelston Conservation Area. To the northwest of the site is a Christadelphian Hall and to the north is Sherwell Park. To the northeast of the site is a service lane that divides the site from the local amenities of Old Mill Road, Chelston Local Centre and residential accommodation. Similarly, to the southeast of the site, is Old Mill Road which divides the site from local amenities and residential accommodation.

The site is adjacent Chelston Local Centre as defined by Policy TC2 of the Torbay Local Plan. The site is within Flood Zone 1, which is a Critical Drainage Area.

### **Description of Development**

The proposal seeks to convert the former Cockington Primary School site into five, two-bedroom apartments, one three-bedroom apartment, one one-bedroom apartment, and four two-storey, three-bedroom dwellings.

Apartments 1-6 would be at ground and first floor level within the former main school building, and apartment 7 would be at lower ground floor level. The proposed new-build dwellings would replace the three temporary classrooms to the north of the site which are to be demolished and removed. Their current state of disrepair is due fire damage.

The proposal includes individual private amenity spaces for apartments 3 to 6, with also a communal outdoor amenity space for all residents. The proposed new-build dwellings will each have their own individual, outdoor, private amenity spaces. The proposals would alter the vehicular access from Old Mill Road and also provide a new, separate pedestrian access. 14 on-site parking spaces would be provided.

### **Pre-Application Enquiry**

DE/2018/0074: Redevelopment of existing school building to create 7 flats, with demolition of existing temporary classrooms and construction of 4 dwellings.

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

## 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**

No previous relevant planning history relating to the site.

## **Summary of Representations**

3 letters of representation have been received.

Comments raised include:

- Affordable housing
- Traffic and access
- Trees and wildlife
- Parking arrangements
- Visual impact
- Impact on local businesses
- Impact on local area
- It provides houses

## **Summary of Consultation Responses**

### **Devon County Council Archaeologist:**

*The proposal includes the conversion of a heritage asset that is recorded on the Devon & Torbay Historic Environment Record (HER). The building is a former school that was built in the late 19th or early 20th century.*

*The proposal will retain the building and many of its original architectural features. However, in some respects the character of the building will be changed. In mitigation for this I would recommend that a record be made of the historic building prior to its conversion. The applicant could deposit a digital set of current elevations and plans, together with photographs and a copy of the D&A Statement as a public record with the HER (with any personal information redacted). Alternatively, a record could be secured through a condition.*

### **Torbay Council's Senior Tree and Landscape Officer:**

*I have reviewed the above planning application and make the following comments:  
Appraisal:*

*Following is based on review of the following documents:*

- *Tree report 05270 TCP-constraints*
- *Tree Report 05270 – Tree survey*
- *Tree Report 05270 TPP Protection Plan*
- *Arboricultural Development Assessment*

#### *Appraisal*

- *The assessment of the tree stock accurately reflects the vegetation on site.*
- *The categorisation of the trees conforms to the relevant British Standard.*
- *The off-site trees along the road are the most significant trees as are those within Sherwell Park.*
- *The Tree Protection Plan is adequate for the proposed development.*
- *No AMS has been submitted.*
- *No Landscape scheme has been submitted.*

#### *Conclusion*

- *The development proposal is sustainable from an arboricultural perspective with conditions.*

#### *Recommendations*

- *A full and detailed landscape scheme is submitted to be approved by Torbay Council prior to commencement.*
- *An arboricultural method statement (AMS) detailing tree protection, site visit frequency, inspection recording and the lifting of the hard surface within the RPA of tree T1-T4 and the introduction of a grass area within the RPA to be submitted and approved prior to commencement.*

#### **South West Water:**

*No objection subject to foul and surface water being kept separate and connected to the dedicated public foul and surface water sewer networks.*

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

*No response received.*

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

*As the security element of the building regulations, namely Approved Document Q (ADQ), sits outside the decision making process for the planning authority, please find the following information to inform the applicant to ensure compliance:-*

*ADQ creates security requirements in relation to all new dwellings, including those resulting from a change of use, for example commercial, warehouses or barns undergoing conversion into dwellings. It also applies to conservation areas.*

*All doors at the entrance to a building, and all ground floor, basement and other easily accessible windows, including roof lights, must be shown to have been manufactured to a design that has been tested to an acceptable security standard i.e. PAS 24 2016.*

*As such it is recommended that all external doors and easily accessible windows are sourced from a Secured by Design (SBD) member-company. The requirements of SBD are that doors and windows are not only tested to meet PAS 24 2016 standard by the product manufacturer, but independent third-party certification from a UKAS accredited independent third-party certification authority is also in place, thus exceeding the requirements of ADQ and reducing much time and effort in establishing provenance of non SBD approved products.*

*SBD also incorporates a bespoke element (4 or less dwellings) to assist in the crime prevention approach with regard to listed buildings and heritage status.*

***Secured by Design (SBD) is a police owned initiative which aims to improve the security of dwellings and their immediate surroundings in order to provide safer places to live and visit.***

*The above should be considered in conjunction with the following attributes of Crime Prevention through Environmental Design (CPTED):-*

- ***Access and movement:*** *Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security*
- ***Structure:*** *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 such as dumping and dog fouling etc. to go unnoticed.*
- ***Ownership:*** *Places that promote a sense of ownership, respect, territorial responsibility and community*
- ***Physical protection:*** *Places that include necessary, well-designed security features as laid out in SBD Homes 2019*
  1. *All gates that lead to private rear gardens must match the same height (1.8m) and robust solid construction as the adjoining boundary treatment. The gates must be capable of being locked from both sides, so that rear gardens can be secure regardless of access or egress.*
- ***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.*
- ***Management and maintenance*** - *Places that are designed with management and maintenance in mind to discourage crime, fear of crime and ASB.*

### Parking

*One of the most contentious issues for new development is vehicle parking but it is vital that prior to determination the proposed parking provision is considered adequate when balanced against the schedule of accommodation, to prevent potential vehicle related problems and issues, not just for the new development but for the local residential and business areas too. Parking spaces should be allocated to prevent conflict over use.*

### **Torbay Council's Senior Environmental Health Officer:**

*I would confirm that I have no objection to approval subject to the inclusion of a condition requiring a demolition and construction management plan. A suitable condition may be as follows:*

#### Construction/Demolition Management Plan:

*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. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust. The plan should include, but not be limited to:*

- Procedures for maintaining good neighbour relations including complaint management.*
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:  
08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.*
- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.*
- Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.*
- Control measures for dust and other air-borne pollutants.*

*Reason: In the interests of the amenities of surrounding occupiers during the construction of the development and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.*

### **Torbay Council's Highways Engineer:**

*Highways Technical issues are the number of proposed parking spaces are inadequate, although the site is on the cusp of a Local Centre. Also, some of the proposed parking spaces seem tight to walls and fences.*

### **Torbay Council's Senior Strategy and Project Delivery Officer:**

*No response received.*

### **Torbay Council's Waste Client Manager:**

*Looking at the submitted plans, I do not believe that there is adequate space for the storage of waste and recycling from the 11 properties. The designs show use of larger 1100L bins and show that provision has been made for refuse and dry recycling. However, residents would also be provided with a food waste collection and the developer would need to ensure that there is adequate space for these containers.*

### **Torbay Council's Drainage Engineer:**

*Awaiting an updated response, due to additional information requested. An update will be provided to Members.*

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

1. Principle of Development
2. Impact on the Character of the Area
3. Impact on Residential Amenity
4. Impact on Highway Safety
5. Ecology and Biodiversity
6. Flood Risk and Drainage
7. Affordable Housing Contributions
8. Designing Out Crime

### **Planning Officer Assessment**

#### **1. Principle of Development**

The proposal is for the conversion of the former Cockington Primary School site into five two-bedroom apartments, one three-bedroom apartment, one one-bedroom apartment, and four two-storey, three-bedroom dwellings.

Policy H1 of the Local Plan states that proposals for new homes within Strategic Delivery Areas, and elsewhere within the built-up area, will be supported subject to consistency with other policies in the Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed. The proposal would therefore comply with Policy H1 of the Local Plan.

Policy TS4 of the Torquay Neighbourhood Plan 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 further advises that development of greenfield sites can have an adverse impact through the loss of green space, so will only 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 the light of the broad aspirations of Policy H1 of the Local Plan and Policy TS4 of the Torquay Neighbourhood Plan, 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, in a sustainable location with good access to shops and other services, transport links and recreational areas, within an area currently of residential character. This context supports the principle of a residential use being acceptable.

## **2. Impact on the Character of the Area**

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 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'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

Apartments 1-6 on the ground and first floors and apartment 7 on the lower ground floor would all be accommodated within the former school building's existing envelope, with only minor alterations to its external appearance. New-build dwellings would replace the three temporary classrooms to be demolished. This demolition is welcomed and the proposed new-build, terraced dwellings will provide a positive addition to the site. The side elevations of these dwellings contain openings instead of a blank façade, which assists in providing active frontages. It is considered that the proposed development provides a suitable and well-designed scheme to redevelop a vacant brownfield site.

A planning condition is recommended to secure details of the proposed external materials. Given the proposal's siting, scale, and design, it is considered to be acceptable and without unacceptable detriment to the character and appearance of the locality or street scene in accordance with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

## **3. Impact on Residential Amenity**

### *Internal Living Space*

Policy DE3 of the Local Plan requires that new residential units provide adequate internal floor space in order to achieve a pleasant and healthy environment. The Neighbourhood Plan is largely silent on the matter of amenity. The NPPF guides (Paragraph 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.

Policy DE3 sets out the minimum floor space standards for new dwellings and apartments. The proposed dwellings comply with the minimum floor space requirements of 93 square metres for three bedrooms which have five bed-spaces. The proposed apartments all substantially exceed the minimum floor space requirements set out in Policy DE3 of the Local Plan. Therefore, the proposed residential accommodation is considered to comply with Policy DE3 of the Local Plan.

### *External Amenity Space*

Policy THW4 of the Torquay Neighbourhood Plan states that all new houses shall have not less than 20 square metres of outside space and must have garden areas with not less than 10 square metres of space suitable for growing plants or the equivalent allocated communal growing space within an easy walk. Flats or apartments must have either a balcony of not less than 10 square metres and as appropriate to the size of the home or a communal green area of not less than 10 square metres per unit within the curtilage of the property. Apartments 3 to 6 have their own individual allocated amenity spaces that comply with the requirements of Policy THW4, however all apartments would have access to large communal outdoor amenity spaces. The proposed dwellings have their own individual amenity spaces that comply with the requirements of Policy THW4. The site also benefits from being within close proximity to Sherwell Park.

### *Daylight*

Each of the habitable rooms proposed within the dwelling are served by sufficient window openings to allow for sufficient outlook and light and as such is considered to offer a good standard of internal amenity for future occupiers. Given the differences in finished floor levels, it is considered that the proposed openings between the proposed apartments and dwellings will not provide direct intervisibility between habitable rooms. 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.

To ensure the amenity of the occupiers of Unit 7 are protected, a planning condition is proposed to ensure suitable enclosures around the south-western elevation to prevent headlight intrusion and nuisance from other occupiers of the development. Also, parking space 13 indicated on the proposed layout will be allocated to Unit 7 in the interests of protecting the amenity of the occupiers of this unit.

Given the proposal's siting, design and orientation in relation to adjacent neighbours it is considered that the proposed development would not have a detrimental impact

on the amenity of neighbours, in terms of their outlook, privacy, or access to natural light.

A planning condition will be employed to secure the boundary treatments of the site to ensure an acceptable level of privacy is maintained between future occupiers and also adjacent neighbours. The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

#### **4. Impact on Highway Safety**

Policy DE3 Development Amenity of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA1 sets out promoting improvements to road safety. Policy TA2 Development Access of the Local Plan states 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 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future. Policy TH9 goes on to state that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel.

The proposal alters the existing vehicular access from Old Mill Road and provides easier access to the proposed parking court. The proposal also provides a separate pedestrian access. The proposal includes 14 on-site parking spaces. It is considered that the proposed development should provide one off-street parking space per apartment and two off-street parking spaces per dwelling, totalling 15 off-street parking spaces, plus an additional parking space for visitors. The Council's Highways Engineer was consulted on the application and raises a concern with regard to the number of onsite parking space, however as the site is on the edge of the Local Centre, it is considered that the site is in a sufficiently sustainable location in close proximity to local amenities and public transportation links to mitigate the insufficient onsite parking provision.

The Council's Waste Client Manager is not satisfied with the proposed waste arrangements. The proposed bicycle storage details have not been provided in full, there is also concerns of the location of the residents bicycle storage, given it being in close proximity to the public highway and not within the natural surveillance of the entire site. Conditions are therefore recommended to secure satisfactory bicycle storage, refuse storage and the implementation of the proposed parking and

manoeuvring provision. An informative can be employed to bring to the applicant's attention the requirement that a licence be sought for works within the highway.

Subject to the aforementioned planning conditions, it is considered that the proposal would have an acceptable impacts in terms of highway safety, and would comply with Policies TA1, TA2 and TA3 of the Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

## **5. Ecology and Biodiversity**

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 of the Torquay 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 (Paragraph 170).

The application is supported by a Bat and Protected Species Survey. The report states that the no field signs of use by bats was found within the School Building. However, due to the building construction type, age, complexity and inaccessible attic voids, it is considered that field signs of use by bats could be concealed and that it is likely the School Building supports roosting sites for bats. The report goes on to state that, it is considered that the Toilet Block and Theatre Building does not support a bat roost, and that the proposed works are unlikely to result in disturbance to bats or to significantly affect the distribution or abundance of local populations. The Brickwork Workshop and Classroom included ten and three lesser horseshoe bat droppings on the floor of the small storage room below a light fitting and on a desk below a ceiling beam, respectively. The location and number of droppings found is indicative of a night roost in both buildings for an individual or low numbers of lesser horseshoe bat/s. The report concludes that further survey work is required and it would define the impact of the proposed works and would confirm appropriate mitigation in relation to the proposed development. The report stated that in terms of nesting birds, No former bird nest sites were identified within or upon the School Building. However, the numerous gaps around the soffit eaves are likely to conceal bird nesting sites. Two former nesting sites for blackbird were found on light fittings within the toilet cubicles. It is likely that these bird nest sites could be re-established, or supplemented by newly established nests, within/upon the buildings during any future bird nesting seasons.

The survey states potential mitigation measures and enhancement features which are recommended as a planning condition.

Policy C4 of the Local Plan states that development will not be permitted when it would seriously harm, either directly or indirectly, protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Policy C4 goes on to state that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features wherever possible, particularly where they serve an important biodiversity role.

The application is supported by a tree report, a tree survey, a tree protection plan and an arboricultural assessment. The Council's Senior Tree and Landscape Officer confirms the proposal development is sustainable from an arboricultural perspective subject to conditions to secure a full and detailed landscape scheme and an arboricultural method statement.

Having considered the submitted assessments, subject to the aforementioned planning conditions, 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, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

## **6. Flood Risk and Drainage**

Policy ER1 Flood Risk of the Local Plan states that proposals should 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 site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment. Due to initial comments received from the Council's Drainage Engineer, the applicant has submitted further information to address the concerns raised with regards to the surface water flood risk, which await final comments from the Council's Drainage Engineer. An update will be provided to Members at the Meeting.

## **7. Affordable Housing Contributions**

The proposal falls below the threshold for affordable housing contributions as outlined in Policy H2 of the Local Plan which seeks affordable housing contributions on brownfield sites of fifteen dwellings or more.

## **8. Designing Out Crime**

The Police Designing-Out Crime Officer has made recommendations intended to ensure that the proposal would be adequately designed to prevent opportunities for crime and anti-social behaviour. Officers recommend the use of a planning condition to secure a scheme of crime prevention measures. 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.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would make use of an existing building within the existing urban area and is located in close proximity to local amenities and good public transportation links.

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

Human Rights Act - The development has been assessed against the provisions of the Act, and in particular Article 1 of the First Protocol and Article 8. 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 Act requires public bodies to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race/ethnicity, religion or belief (or lack of), sex and sexual orientation.

### **Local Finance Considerations**

S106:

Not applicable.

CIL:

The land is situated in Charging Zone 2 in the Council's CIL Charging Schedule; this means that all new floorspace will be charged at a rate of £70/sqm. An informative can be imposed, should consent be granted, to explain the applicant's/developer's/landowner's obligations under the CIL Regulations.

### **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:

Not applicable.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme addresses the Development Plan aspiration to provide

housing producing a significantly positive impact overall and helping with the supply of much needed housing.

### **Conclusions and Reasons for Decision**

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, flood risk, and ecological constraints. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning and Transport.

### **Conditions**

#### **Landscaping**

Prior to the first occupation of the development hereby approved, a scheme of hard and soft landscaping shall be 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 8 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.

#### **Boundary Treatment**

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

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

### **Bats and Breeding Birds**

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

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

### **Permitted Development Rights**

Notwithstanding the provisions of Article 3 of the Town & Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no development of the types described in Schedule 2, Part 1 Classes A, B, C, D, E and G in relation to the dwellinghouses hereby approved shall be constructed without the prior written consent of the Local Planning Authority.

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

### **Bicycle Storage**

Notwithstanding the submitted bicycle storage shown on plan reference 'OMR BP XX XX DR A 025 001 P2' received 22<sup>nd</sup> November 2019, prior to the first occupation of the development hereby permitted, provision shall be made for the storage of bicycles according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: To ensure adequate parking facilities are provided to serve the development in accordance with Policies TA2 Development Access and TA3 Parking Requirements of the Adopted Torbay Local Plan 2012-2030.

### **Refuse Storage**

Notwithstanding the submitted refuse storage shown on plan reference 'OMR BP XX XX DR A 025 001 P2' received 22<sup>nd</sup> November 2019, prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

### **Communal Garden**

The development hereby approved shall not be occupied or brought into use until the 'communal amenity' detailed on the plan referenced "Proposed Layout" ('OMR BP XX XX DR A 025 001 P2' received 22<sup>nd</sup> November 2019) has been provided in full. This communal garden area shall thereafter be retained for the use of all of the development's occupiers for the life of the development.

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

### **Parking and Manoeuvring Provision**

The development hereby approved shall not be occupied or brought into use until the parking spaces and manoeuvring area detailed on the plan reference "Proposed Layout" (plan reference 'OMR BP XX XX DR A 025 001 P2' received 22<sup>nd</sup> November 2019) have been provided. These elements shall thereafter be retained for the use of the associated dwelling for the life of the development.

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

### **Designing Out Crime**

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 Adopted Torbay Local Plan 2012-2030.



## **Materials**

No development above damp proof course level shall take place until the developer has submitted samples of all the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be carried out in accordance with the approved details and shall be retained as such.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of locality and the streetscene in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

## **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. Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- j) Procedures for maintaining good neighbour relations including complaint management.
- k) Mitigation measures as defined in BS 5528: Parts 1 and 2: 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.

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

## **Ecological Impact Assessment**

The development shall proceed, and shall be retained thereafter, in full accordance with the approved bat and breeding bird survey (plan reference '2015-12067-CLS-CLS (WML-A34-Level 2)' received 6<sup>th</sup> September 2019) hereby approved, including the outlined mitigation measures and ecological enhancements.

Reason: To ensure that the development proceeds in an appropriate manner, in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030.

## **Unit 7 – Residential Environment**

Notwithstanding the details on the approved plan referenced 'OMR BP XX XX DR A 025 001 P2' (received 22<sup>nd</sup> November 2019), no development shall take place until a scheme of mitigation, to protect the amenities of the future occupiers of Unit 7, has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of vegetation and boundary treatment to Unit 7's south-western elevation to provide a stand-off from its windows, to prevent headlight intrusion into the dwelling's windows from cars entering/leaving the site. The approved measures shall be implemented prior to the first occupation of Unit 7 and shall be retained for the life of the development.

Reason: To ensure an adequate internal living environment and to ensure compliance with Policy DE3 of the Torbay Local Plan.

## **Unit 7 – Allocated Parking Space**

Prior to the first occupation of Unit 7 hereby approved, the parking space '13' on the plan referenced 'OMR BP XX XX DR A 025 001 P2' (received 22<sup>nd</sup> November 2019), shall be specifically allocated to that unit and thereafter retained as such.

Reason: To ensure an adequate internal living environment and to ensure compliance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

## **Flood Risk Assessment**

The wording of a suitable condition will be finalised once drainage matters have been resolved.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan (2012-2030), the guidance contained in the NPPF, and the requirements of the designation of the Critical Drainage Area by the Environment Agency.

## **Informative(s)**

01. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
02. Responsibilities of the applicant / developer:

All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

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

This development is liable for contributions under the CIL regulations to provide essential infrastructure to support development in the Borough.

CIL next steps required under the CIL Regulations 2010 (as amended):

Where planning permission has been granted for development, the Council (as the collecting authority) requires the developer, landowner or another interested party to assume liability for the levy by submitting an assumption of liability form. The Council, as the collecting authority, will then as soon as reasonably

practicable, issue a Liability Notice to the applicant, the developer, and/or whoever has assumed liability for the scheme, which sets out the charge due and details of the payment procedure.

Any claims for exemption or relief can only be considered from parties who have already assumed liability, prior to commencement of development.

The relevant liable person(s) must then submit a notice to the Council setting out when development is going to start - a Commencement Notice. The Commencement Notice must be submitted to the Council for their written acknowledgement at least 48 hours prior to the start of any development on the site. No development must commence without written acknowledgement of receipt of a Commencement Notice.

The Council will then issue a demand notice to the landowner, or whoever has assumed liability, setting out the payment due dates in line with the payment procedure. On receipt of the demand notice and commencement of the development, the landowner, or whoever has assumed liability, should follow the correct payment procedure.

Failure to inform the Council of Commencement or to follow the CIL process and payment procedure correctly may result in the addition of surcharges and/or late payment interest. It must be noted that it is an offence for a person to 'knowingly or recklessly' supply false or misleading information to a charging or collecting authority in response to a requirement under the levy regulations (Regulation 110 as amended by the 2011 Regulations).

Further CIL information and Forms can be found at <https://www.gov.uk/guidance/community-infrastructure-levy#forms-and-template-notices>

## **Relevant Policies**

### Torbay Local Plan

C4 – Trees, Hedgerows and Natural Landscape Features

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

H1 – Applications for New Homes

H2 – Affordable Housing

NC1 – Biodiversity and Geodiversity

SS3 – Presumption in favour of Sustainable Development

TA1 – Transport and Accessibility

TA2 – Development Access  
TA3 – Parking Requirements

*Torquay Neighbourhood Plan*

TH2 – Master Plans  
TH8 – Established Architecture  
TH9 – Parking Facilities  
THW4 – Outside Space Provision  
TS4 – Support for Brownfield and Greenfield Development