

Application Site Address	Bishops Court Hotel, Lower Warberry Road, Torquay
Proposal	Conversion and refurbishment of mansion to form 5 apartments. Removal of redundant leisure complex and construction of 11 new houses within grounds. Conversion and refurbishment of 14 existing curtilage apartments to form 4 houses, and construction of 8 radial garages and 2 detached garages to replace surface parking.
Application Number	P/2019/1274
Applicant	Ascena Developments Limited
Agent	Mr Charles Uzzell
Date Application Valid	03.12.2019
Decision Due date	03.03.2020
Extension of Time Date	18.06.2020
Recommendation	Approval
Reason for Referral to Planning Committee	Major Planning Application
Planning Case Officer	Mr. Alexis Moran

SITE PLAN



Site Details

Bishops Court, a former hotel and Grade II listed building stands in a spacious plot with a vehicular access from Lower Warberry Road. It was formerly known as 'Normount' and was built in 1844.

The villa has been subject to a number of alterations and extensions over the years in order to provide additional holiday accommodation in the hotels heyday, which did compromise its architectural integrity.

The site is bound to the north by Middle Warberry Road, to the east by The Warberries Nursing Home and to the west by a block of flats known as 'Sorrento'. The site slopes down from the north to the south. The main villa is grade II listed, as is the neighbouring nursing home; the pavilion at the east of the site is also separately grade II listed as is the entrance gate and piers.

The major part of the garden to the villa, which lies to the east of the site, was previously occupied by two additional terraces of holiday accommodation running east-west across the site and built into the slope. The lower terrace has been partly demolished in recent years.

The site is within the Warberries Conservation Area. The Conservation Area Appraisal identifies the main villa as an important building with an unspoilt frontage. The view south from the rear of the villa is identified as important within the conservation area and the front boundary walls are shown as prominent walls. The site is covered by a Tree Preservation Order (1973.12).

Description of Development

The proposal is for the development of 20 dwellings (5 apartments and 15 houses). The scheme comprises the conversion of the existing Bishops Court Grade II Listed Building to 5 apartments. The conversion of 14 existing apartments/bedsits to the north & north-west of the Listed Building to four houses. The partial conversion, extension and new build of five houses to the north-east of the Listed Building referred to on the plans as the Upper Houses. The partial conversion, extension and new build of five houses to the south-east of the Listed Building referred to on the plans as the Lower Houses, and a new house in the south west corner of the site for a live on-site caretaker.

Fourteen of the proposed houses are either conversions or conversion/extension/new build on the footprint of existing buildings on the site. There is also a proposed new house in the south-west corner of the site that is currently a surface parking area.

The apartments and houses all have garaging, the development provides 57 parking spaces including 39 spaces for the 20 dwellings and 18 visitor spaces including 3 disable parking spaces.

Pre-Application Enquiry

N/A.

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

Material Considerations

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

Relevant Planning History

P/2019/1262: The Listed Building application which accompanies this major planning application; recommended for approval, pending consideration.

P/2013/0372/MPA: This provides for the demolition of the existing holiday accommodation in the garden area and its replacement by a lower terrace of 9, 3 storey, 3 bed dwellings and a rear terrace of 9, three storey, 4 bed dwellings. Each of the terraces has integral garages and visitor spaces; committee resolution to approve (11.11.2013) however the legal agreement was not signed.

P/2013/0400/PA: This application proposed amendments to the approved scheme for conversion of the main villa to flats and reduces the number of units from 8 to 7. The ground floor apartments comprise 2 large 3 bed units to avoid undue impact on the existing layout. Of the remaining units, 4 are 2 bed units and 1 is 1 bed. The changes relate principally to the layout and alterations to the rear elevation; committee resolution to approve (11.11.2013) however the legal agreement was not signed.

P.2013/0401/LB: Is the listed building application in connection with the above planning application.

P/2013/0891: This relates to the redevelopment of a block of holiday accommodation to the rear of the villa to provide 6 new dwellings (2x 1 bed 3 x 2 bed and 1 x 3 bed); committee resolution to approve (11.11.2013) however the legal agreement was not signed.

P/2012/1001: Certificate of lawfulness for a proposed erection of four dwelling house described as Mews Building E in accordance with planning permission granted on 8 July 2009 (LPA ref P/2008/1623/MPA); Approved 08.02.2013

P/2008/1623 & P/20089/1624: Alterations to grade II listed building and conversion into apartments; removal of hotel and bedroom blocks; formation of 42 residential units and spa facilities comprising 32 no 2 storey dwellings and 10 no apartments (revised scheme); Approved 08.07.2009

Summary of Representations

One letter of objection was received at the time of writing this report which stated that the development would be out of keeping with the area and overly dense.

One letter of representation was received which requests a condition be added regarding flood risk.

Summary of Consultation Responses

Historic England – No comment

Torbay Council Heritage advice –

Built 1844, Bishops Court (formerly Normount) is a large Neo-classical style property with a natural slate roof and stucco/painted render external finish. The building is described within the published Warberries Conservation Area Appraisal as having a largely unspoilt frontage and being part of an important group of buildings.

The building has been subject to various alterations including extensions, alterations to the plan form and inconsistent decoration undertaken throughout the life of the building during its residential and hotel uses. The significance of the heritage asset has undoubtedly been impacted in the past by unsympathetic development both to itself and the setting. However, the building still retains many features that contribute positively to its historic and architectural value.

It is proposed to subdivide the principle building into 5 apartments. Internally alterations to the openings, circulation and new partitions are proposed to facilitate the conversion. 2 apartments to the ground and first floors are proposed, with a further 1 apartment to be located on the second floor.

Generally the approach to the conversion into 5 apartments is more suitable than the previously approved application that sought a larger number of units. The relieved pressure has enabled a more sympathetic subdivision of spaces, with the larger units allowing for a reduced impact upon features of architectural interest throughout the Grade II Listed building.

The method of internal subdivision would retain any existing detailing such as cornicing, panelling and picture rails and would continue them around the newly created spaces. Partitions have also been located pragmatically reducing clashes with detailing where possible. Where insulation is proposed to exterior walls to provide increased thermal performance, any surface mounted detailing would be carefully removed and repositioned on top of the newly lined walls to match the existing appearance, preserving the historic plaster beneath. Whilst the proportions of some of the rooms would be altered with the proposed layout, many of the principle rooms have been retained relatively unaltered. As stated within the submitted heritage statement, the stripping out of any redundant services when work is carried out on site should be carried out with care to ensure the historic fabric is preserved. The proposal would retain significant features for example fireplaces and surrounds, throughout the building and has minimised the removal of internal historic fabric allowing the alterations to the layout to be generally reversible.

There would be few alterations to the unspoilt frontages of the building, with repair to existing stucco/render and windows and general redecoration. Throughout the building many of the windows would be 'overhauled' repairing/replacing where necessary to match comparative originals where appropriate. The replacement of existing windows with new timber sliding sash to match others in the rear wing would provide a consistent appearance to this part of the building. The proposed replacement/alterations to the windows would provide a consistent appearance within wing extending from to the North and to other existing windows within the newly created courtyard area. The removal of later incongruous additions to the building would result in an enhancement of the existing appearance of the building.

The listed description describes the large terraced garden having been altered for hotel use. The contribution of garden to the setting to the significance of the heritage asset has undoubtedly been eroded over time through a series of developments and alterations. Beyond the site itself, there are limited views of the listed building and its setting due to the wider topography of the area and the site's existing boundary treatment and vegetation.

The proposed residential development within the grounds would be located in the place of existing alterations to the setting and, as such, are considered to be suitably located. The key views of the listed building on entering the site up the sweeping drive would be maintained, enabling the intended prominence of the listed building to be appreciated. The proposed layout would also maintain the link between the listed building on the site and the listed pavilion located within the grounds.

The cumulative change to the setting over time, has resulted in the setting of the heritage asset no longer making the contribution it once did to the significance of the listed building.

Conclusion

The proposal is a suitable development that would enable the continued use of the building and would result in improvements in the quality of the Grade II Listed building after the removal of extensions and other alterations that currently have a negative impact on the significance of the building.

Whilst there are some elements of the proposal which might be regarded as falling within the less than substantial harm category these are weighted against the other more positive elements highlighted, which overall would serve to result in a neutral impact on the special merit of the listed building.

This conclusion has been reached in relation to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

Recommendations.

It is recommended that a schedule of works should be submitted that include details all internal and external alterations to the Listed Building.

All stripping out should be undertaken with particular care to ensure the historic fabric is preserved. Where alterations to the historic fabric are identified and necessary works of making-good should be carried out to match the existing original adjacent work in respect of materials used, detailed execution and finished appearance.

The development should be carried out in accordance with the submitted details.

Torbay Council Drainage Engineer – *No objection providing the surface water drainage is constructed in accordance with drawing number 102176-D001 Revision C and the previously submitted hydraulic design.*

Senior Tree and Landscape Officer –

Having reviewed the above application please see below for comments:

Appraisal

- *The site is subject to an area tree preservation order – 1973.12*
- *The site is located within the Warberries Conservation Area*
- *All trees on site are subject to statutory protection*
- *The submitted tree appraisal provides an overview of the trees on site*
- *The site is complex in respect of existing level changes and surfaces around the trees*

Conclusion

- *The site can be developed*
- *The impact on the trees will need to be considered as part of the development proposals*
- *The complex nature of the site may allow for modification of perceived rooting environments*
- *The development is sustainable from an arboricultural perspective providing the following recommendations are adhered to*

Recommendations

- *Detailed tree protection plan (including demolition protection plan if necessary)*
- *Detailed method statements*
- *Arboricultural impact assessment.*
- *The above documents to be submitted and approved prior to commencement.*

Natural England – No comment

Torbay Council Strategic Transport – No objection

Police Architectural Liaison Officer - *With regard to multi-occupancy buildings, tradesperson buttons are discouraged by the police due to an increase in crime, fear of crime and antisocial behaviour as such the delivery of mail will need to be*

considered. A couple of options to consider could be an approved external wall mounted mail box system or an approved 'through the wall' into individual secure boxes. Also the reading of utility meters should be capable of being done remotely to prevent accessing having to be gained into the building/dwellings.

Shared entrances should also have an access control facility and a visitor door entry system for each dwelling with both audio and visual capacity.

- **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

The proposed on-site caretaker is noted and much supported in satisfying the requirements of this attribute.

The proposed parking provision for the above scheme is noted but it is respectfully requested that the provision and design of the parking is considered to be both sufficient, when balanced against the overall schedule of accommodation and practical and convenient to use to prevent unplanned parking elsewhere, as it is the 'elsewhere' that can prove problematic and lead to upset and angst amongst residents due to inconsiderate and/or obstructive parking.

Key Issues/Material Considerations

Planning Officer Assessment

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

1. Principle of development

1.1 In terms of the principle of a residential use Policy H1 of the Torbay Local Plan states that proposals for new homes within the built-up area (as is the case in this instance), will be supported subject to consistency with other policies in the Local Plan. Torquay Neighbourhood Plan Policy TS4 (Support for Brownfield and Greenfield development) states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in this plan.

1.2 The site is shown as a committed site (CDST28) in both the Torbay Local Plan and the Torquay Neighbourhood Plan and has an extant permission P/2008/1624 for 32 no 2 storey dwellings and 10 no apartments. Bishops Court is a stalled brownfield site that is currently unused and run-down.

1.3 The principle of the change of use of the site from a hotel/holiday accommodation to residential was established by the extant permission on the site and it is noted that Torquay Neighbourhood Plan Policy TT2 states that within designated Conservation Areas or where Listed Buildings are involved, whether inside or outside of a CTIA, change of use from tourist accommodation will be supported in principle (subject to other policies in this 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.

1.4 In light of the broad aspirations of Policies H1, TS4, TT2 and previous permissions and allocations on the site, the principle of residential use is considered acceptable, subject to broader policy considerations.

2. Impact on Visual Amenity

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

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

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

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

2.5 The Grade II Bishops Court building is to be divided into 5 apartments rather than 8 which are currently approved. Externally the alterations include the removal of the later rear north-west corner extension of the mansion and the polygonal linking element will be removed to restore the separation between the building and its former service wings. The windows throughout the building are to be 'overhauled' and repaired or replaced where necessary to match the comparative originals. The general approach to the alterations and refurbishment of the mansion will remain much as previously approved, but with fewer apartments.

2.6 The conversion of the building to the north and north-west of the Listed Building from fourteen existing apartments into four houses is considered to provide an enhancement to the Listed Building's setting through the reduction in the density of activity which will create less pressure on the site from uses such as car parking that presently are considered as harming to the setting of the Listed Building. The minor external alterations to the render and cornice are considered to enhance the buildings.

2.7 The five houses proposed to the north-east of the site will be located in a similar position, albeit over an extended footprint, as the existing buildings in this location. The new houses would be no higher than the existing building and would be finished with sedum roofs with solar arrays. The houses would consist of a lower ground floor parking area and home gym/cinema area with three storeys of accommodation above. The north elevation facing Middle Warberry Road is clad with natural slate so as to have a similar appearance as the existing. The proposed buildings in this location would be no more visible than the existing. The south facing elevations provide a modern contrast to the Listed Building and follow the design considered acceptable as part of previous applications on the site. The houses are finished with render on and broken up on their southern elevations at ground floor by cladding and on the east and west elevations by cladding and additional windows. The materials for the cladding will form part of the materials condition and it may be a more suitable solution for the cladding to be stone rather than timber.

2.8 The south-east block of five houses is a partial conversion of the existing building, a very substantially engineered concrete structure that supported a garden area and lawn tennis court on its roof. The five houses here would be of a similar design and finish to the five to the north of them. They would comprise of a ground floor parking area and gym/cinema room with two storeys of accommodation above. The five houses will be on a lower part of the site that slopes steeply from south to north, which would provide some mitigation to the perceived height of these buildings and their relationship to the Listed Building.

2.9 The Caretaker's house is a modest 3-bedroom house located in the south-west corner of the site on the opposite side of the access road to the Listed Building and is finished with timber cladding and a natural slate roof, which is befitting of its tree orientated setting. It will be seen as being separate from the Listed Building and will have limited impact on its setting.

2.10 It is considered that the form and layout of the development would make effective use of what is brownfield land, and respond well to the topography of the site. The development would result in some enhancements to the site which includes dated and tired structures and would provide a less dense development than the 42 dwellings that currently have consent on the site. The key views of the listed building on entering the site up the sweeping drive would be maintained and the proposed layout would also maintain the link between the listed building on the site and the listed pavilion located within the grounds.

2.11 Given the proposals' siting, layout, scale, and overall design, it is considered that they would not result in any unacceptable harm to the character of the area. Subject to the use of conditions to secure the use of high quality materials; a scheme

of hard and soft landscaping; boundary treatment details and refuse storage arrangements, it is considered that the proposal is in accordance with Policies DE1, SS10, SS11 and HE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

3. Impact on Heritage Assets

3.1 The NPPF states that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 194). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 196).

3.2 Section 72 of The Planning (Listed Buildings and Conservation Areas) Act requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area. Similarly Section 66 of the Act requires that in considering whether to grant planning permission for development which affects a Listed Building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

3.3 Policy HE1 refers to Listed Buildings and states that development proposals should have special regard to preserving listed buildings and their setting. Policy SS10, Conservation and the Historic Environment, states that proposals will be assessed, amongst other things, in terms of the impact on Listed and historic buildings, and their settings, and in terms of the need to conserve and enhance the distinctive character and appearance of Torbay's designated Conservation Areas.

3.4 Policy TH10 of the Torquay Neighbourhood Plan states that alterations to Listed Buildings will be supported where they safeguard and enhance their historic qualities and elements according to their significance. In doing so, proposals which at the same time contribute to providing a sustainable economic future for such buildings will be particularly supported. Policy TT2 of the Torquay Neighbourhood Plan which states that change of use from tourist accommodation and other development proposals requiring consent will be supported in principle 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. However the change of use of the hotel to residential is largely established by extant permission P/2008/1624.

3.5 It is considered that the conversion of the Grade II Listed Building into 5 apartments is more sympathetic to the internal architectural features than the extant permission which sought to divide the building into 8 apartments. The reduction in units reduces clashes with detailing and allows for minimal alterations to the principle rooms and in general the alterations to the layout to be generally are reversible.

3.6 As previously noted there would be few alterations to the unspoilt frontages of the building, with repair to existing stucco/render and replacement windows to timber sliding sash to match the original windows, where appropriate which would provide a beneficial and consistent appearance throughout the building. The proposal includes the removal of later incongruous and deleterious additions to the building would result in an enhancement of the existing appearance of the building, the structure linking the Grade II Listed Building to the building to the north is to be removed which reinstates the building to its original, stand alone, setting.

3.7 The conversion of the building to the north/north-east, which includes minimal external alterations, would result in a better relationship to the Listed Building than the extant permission on this part of the site, which allowed for 14 dwellings, insofar as the pressure on space for parking, bin storage and amenity space.

3.8 The proposed development of 5 dwellings to the north-east of the Listed Building, although being increased in footprint would have a limited impact on the setting of the Listed Building. This building is to be no higher than the existing building in this location and its north elevation is designed to be of similar appearance to the existing. Consequently this part of the development, which is the most visible in the wider conservation area, is considered to have an acceptable impact on the character and appearance of the conservation area.

3.9 The proposed development of 5 dwellings to the south-east of the Listed Building would result in an additional 2 storeys of development in this location which would inevitably result in the most impact on the Listed Building considering the sympathetic nature of the scheme overall. However, due to the topography of the site, they are set lower than the Listed Building and the limited impact they would have on the setting of the Listed Building is considered to be less than substantial whilst providing a public benefit by providing viable addition dwellings to the Councils five year housing land supply. In terms of their impact on the setting of the Listed Building, the Councils Heritage advisor has stated that the cumulative change to the setting over time, has resulted in the setting of the heritage asset no longer making the contribution it once did to the significance of the listed building. The additional development in this area would not significantly impact on the main view of the Listed Building which is obtained when entering the site and moving up the driveway.

3.10 As previously noted, the dwellings to the north-east and south-east of the Listed Building are of a modern design which is deemed to be acceptable in this location and provides a distinction between old and new rather than a less appropriate pastiche form of development.

3.11 The proposed care takers accommodation is considered to be of an acceptable scale, location and design so as to have limited impact on the setting of the Listed Building and the wider conservation area.

3.12 Overall the proposal is deemed to be a suitable development that would enable the continued use of the Listed Building and would result in improvements to its quality through the removal of extensions and other alterations that currently have a negative impact on the significance of the building. Whilst there are some elements

of the proposal which might be regarded as falling within the less than substantial harm category these are weighted against the other more positive elements which overall would serve to result in a neutral impact on the special merit of the list building.

3.13 Subject to a condition requiring the submission of a schedule of works that include details of all internal and external alterations to the Listed Building, as recommended by the Councils Heritage advisor, the proposal is considered to comply with policies HE1 and SS10 of the Torbay Local Plan and policies TH10 and TT2 of the Torquay Neighbourhood Plan.

3.14 This conclusion has been reached in relation to section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest which they possess and section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

4. Impact on Residential Amenity

4.1 Policy DE3 of the Torbay Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers.

4.2 The development to the north and west of Bishops Court are largely retained as existing and therefore the relationship with neighbouring properties to the west of the site is not altered, nor is the relationship within the site between the existing buildings.

4.3 The existing building to the east is to be replaced with five new dwellings (upper houses) which are no higher than the existing. The new houses in this location would not result in an unacceptable level of overlooking/intervisibility to properties to the east.

4.4 The new dwellings on the former tennis court (lower houses) are to be two storeys in height, above the current ground level in this location, and make use of the existing structures at lower ground level to provide parking and leisure/amenity space. The addition of five new dwellings in this location are considered to have an acceptable impact on the privacy and amenity of the Warberries nursing home to the east and would not result in unacceptable levels of overlooking/intervisibility or an overbearing impact.

4.5 The relationship between the front elevations of the upper houses and the rear elevations of the lower houses is considered to be an acceptable one in terms of overlooking/intervisibility given the distance, difference in levels and the trees and landscaping between them.

4.6 In general, the external amenity areas for the properties accord with the requirements of Policy DE3 (TLP) and there are sufficient cycle and bin storage areas (although further details of bin storage will be requested via condition). All of the

proposed dwellings comfortably comply with the internal space standards identified in the Local Plan.

4.7 In summary the proposal is deemed to provide a satisfactory form of development in terms of protecting the amenities of adjacent and future occupiers, in accordance with Policies DE1 and DE3 of the Torbay Local Plan. The proposal is considered to be an improvement in terms of its impact on existing and future amenities on and off site when compared to the extant permission for 42 dwellings on the site.

5. Impact on Highway Safety

5.1 The NPPF guides that in assessing sites that may be allocated for development in plans, or 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.

5.2 Policy TA2 of the Torbay Local Plan states that all development 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. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided. Policy TA3 (Parking Requirements) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, this states that 1 space per apartment and 2 per dwelling plus appropriate guest parking provision should be provided. Policy TH9 of the Torquay Neighbourhood Plan states that parking levels should comply with Policy TA3 of the Local Plan.

5.3 The proposal provides 39 resident parking spaces for all dwellings on the site plus 18 visitor parking spaces (including 3 disabled parking spaces) all of which are designed and sited to limit their impact on the setting of the Listed Building. During the application phase some of the garages have been increased in length to meet the size standards set out in Appendix F of the Local Plan. All garages include electric charging points.

5.4 The closest bus stops to the site are located on Lower Warberry Road and Middle Warrbery Road with a total of four stops within 200m of the site. The Lower Warberry Road stop to the west of the site provides a layby and shelter. The submitted swept path analysis confirms that refuse vehicles are able to enter and exit the site in a forward gear.

5.5 The Council's Strategic Transport Officer has advised that the level of parking is acceptable and meets the requirements of Policy TA3 and TH9 of the Torquay Neighbourhood Plan. The existing access is also considered to be acceptable to serve the proposed development and does not require alteration and therefore accords with Policy TA2 of the Local Plan.

6. Ecology & Biodiversity

6.1 Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development.

6.2 The proposed scheme will require the partial demolition of the building(s) to the north-east of the site, some demolition to the building to the south-east and conversion of the remaining buildings. The bats surveys resulted in a close examination of the site, where evidence of bat roosts and hibernation was evident. This required the redesign of the proposed Upper Houses to the East of the site, Units 3, 4 & 5. It has been found that an existing void area to the rear of these units is used for both roosting and hibernation. As such these units have been amended to retain the void. This reduces the floorspace of these units deleting the home cinema/gym/games room to units 3 & 4. There is also a redesign of the lift and stairs within the units.

6.3 The site and building layout will be retained close to existing, with new houses constructed within the footprint of the existing buildings and hardstanding, and boundary trees and vegetation retained. Therefore, there is considered to be no net loss of habitats and no significant additional illumination.

6.4 The ecological site survey results have informed measures which have been specifically designed to mitigate and compensate for the ecological impacts of the development, in order to provide a gain in biodiversity at the site post-development. The proposal shall be conditioned to accord these measures which include:

- A minimum of six bat roosting provisions which are suitable for different species of bats will be installed on the buildings and mature trees, located away from lit areas.
- A minimum of six bird boxes suitable for different species of birds which nest in association with human habitation will be incorporated into the buildings proposed for the site or the surrounding mature trees. These will include house sparrow *Passer domesticus* boxes on the buildings, and robin *Erithacus rubecula* and general purpose boxes on the trees.
- Landscaping should include enhancement of the retained planting with native/wildlifeattracting species to provide habitat and foraging value for reptiles, badgers, bats and birds.
- Any arisings from vegetation management should be utilised to create habitat piles and compost heaps in relatively undisturbed areas of the site.

6.5 A badger sett was found on-site and it is recommended that this should be surveyed for activity at least two months prior to commencement of works. If it is considered to be active, a licence from Natural England will be required to

temporarily close the sett before any excavations can take place within 20 metres of the sett throughout the construction works. A condition requiring the survey being carried out and the result submitted to the Local Authority will be added.

6.6 All trees on the site are protected by an area tree preservation order and by virtue of being within a conservation area. The Council's Senior Tree and Landscape Officer has confirmed that development is sustainable from an arboricultural perspective providing the following information is submitted to the Council for approval via condition prior to commencement of works on site:

- Detailed tree protection plan (including demolition protection plan if necessary)
- Detailed method statements
- Arboricultural impact assessment.

6.7 Subject to the addition of suitable conditions the proposal is deemed to comply with Policies NC1 and C4 of the Local Plan.

7. Flood Risk and Drainage

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

7.2 Infiltration testing completed on site indicates that infiltration SuDS techniques are suitable for the site and the applicant proposes a combination of a soakaway and discharging into the existing surface water system at a maximum of the 1 in 10 year greenfield run off rate (2.4l/s) will be suitable for the site. The proposed surface water drainage design presented in the submitted drainage report contains the 1% (1 in 100 year) annual exceedance probability rainfall event including a 40% allowance for climate change and there is no risk of flooding to property on the site or any increased risk of flooding to property or land adjacent to the site.

7.3 The Council's Drainage Engineer and South West Water have raised no objections to this method of drainage, subject to the use of conditions requiring adherence to the submitted drainage and flood risk details.

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

8. Other Considerations

Housing Supply

8.1 The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, with the land supply position at 2019 was 2.5 years and the draft position for 2020 is similar to this. The five year supply position represents a

significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

8.2 Considering the housing supply position it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. 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.

8.3 It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to be in conflict with the Development Plan it should be noted that the absence of a 5 year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

Sustainability

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

8.5 This is a stalled brownfield site which is identified as a committed site for housing within the Development Plan and Torquay Neighbourhood Plan and is hence broadly considered sustainable for future residential development.

8.6 The proposed development has been designed to minimise carbon emissions and re-use of existing on-site resources where appropriate to reduce the development's carbon footprint. The 15 new houses are designed to exceed building regulation requirements with high levels of thermal insulation to walls, floors, roofs, windows and doors.

8.7 The new houses are to be heated via roof mounted PV and heat pumps with heat recovery ventilation. Battery storage areas are provided in the new houses. Where possible the development has been designed so the new houses have large south facing windows to maximise solar gain.

8.8 In the Listed Building internal thermal insulation linings will be used on existing retained internal walls where this does not compromise historic features. The building hitherto has been heated with an inefficient gas fired boiler. Once redeveloped optimal alternatives will be used that do not adversely impact on the historic features of the Listed Building.

8.9 The application proposal has been designed to include a high proportion of recycled material including existing foundations and retaining structures including lower car park together with the substantial landscaping green roofs to minimise carbon footprint. This design approach to the site is in accordance with Local Plan policies SS3 and ES1.

Proactive Working

In accordance with the guidance contained in the NPPF the Council has worked in a positive and pro-active way and has secured improvements to the scheme through revised plans, and concludes that the application is acceptable for planning approval with imposed conditions to enable the grant of planning permission.

EIA/HRA **HRA**

The proposal does not include any works which would result in the loss, damage or disturbance, at a landscape scale, to a network of potential GHS commuting routes. The proposal will not cause loss, damage or disturbance to any existing mitigation features or pinch points. Therefore, there is unlikely to be a likely significant effect on the South Hams SAC and a detailed HRA is not required.

E IA

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.

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

Affordable Housing S.106 Agreement

With regards to affordable housing, Policy H2 (Affordable housing) states that the affordable housing requirement for a scheme of 20 plus dwellings on brownfield land is 20%. The applicant has submitted an Independent Viability Assessment which has been independently reviewed and confirmation has been received that the scheme is unlikely to be viable if affordable housing was provided. In accordance with the provisions of the Council's Planning Contributions and Affordable Housing SPD, and in light of uncertainties pertaining to build costs and values, a s.106 agreement will be required to ensure that the viability of the scheme is reviewed and a contribution towards affordable housing is paid if the scheme turns out to be more profitable than originally anticipated

Community Infrastructure Levy

The residential aspect of the site 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

Conclusions and Reasons for Decision

The site is a stalled brownfield housing site and the development provides a secure future for the currently neglected Grade II Listed Building on the site.

The proposed units comfortably meet the internal size standards set out in the Local Plan and provide suitable amenity space and car parking without causing significant harm to the Listed Building or wider conservation area. The development is considered to result in less than substantial harm to the Listed Building with a public benefit through the re-use of said Listed Building and the provision of much needed additional housing.

The proposals are considered to be in accordance with the provisions of the Development Plan.

The Officer recommendation is one of conditional approval. The proposal is ultimately considered a good use of an identified site that would provide much needed housing to help meet local need.

Officer Recommendation

Approval: Subject to;

The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;

A s.106 agreement to ensure that the viability of the scheme is reviewed and a contribution towards affordable housing is paid if the scheme turns out to be more profitable than originally anticipated and to rescind application P/2012/1001;

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, including the addition of any necessary further planning conditions or obligations.

Conditions

1. Materials

Prior to the commencement of any development other than demolition, a full external material schedule to include details of colour, form and texture, rainwater goods, ducting, flues, ventilation extraction and meter boxes. Where requested by the Local Planning Authority samples of materials to be used in the construction of the external surfaces of the development hereby permitted, shall be submitted to and approved in writing by the Local Planning Authority.

The development shall be carried out in accordance with the approved details.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the area in accordance with policies DE1, SS10 & HE1 of the Torbay Local Plan 2012-2030 and policy TH8 of the Torquay Neighbourhood Plan.

2. Drainage

The development shall proceed fully in accordance with the surface water management as detailed within the submitted hydraulic design and drawing number 102176-D001 Revision C and RW102176V002 Revision B which shall be completed prior to the first occupation any building and maintained at all times thereafter, unless otherwise submitted to and agreed in writing by the Local Planning Authority.

Reason: To secure an appropriate form of development that does not increase the risk of flooding to residents or land or buildings adjacent, in accordance with policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the Environment Agency Critical Drainage Area Advice Note dated May 2015.

3. Tree Protection Measures

Prior to the commencement of development, including ground clearance, a detailed Tree Protection Plan (including a demolition protection plan if necessary), detailed Arboricultural Method Statements and an Arboricultural Impact Assessment shall be submitted to and approved in writing by the Local Planning Authority. The Development shall proceed in full accordance with the approved Method Statements.

Reason: To secure suitable landscaping to support the residential development hereby approved, in the interests of amenity in accordance with policies DE1, DE3 and C4 of the Torbay Local Plan 2012-2030 and policy PNP1(c) of the Paignton Neighbourhood Plan. These measures are required pre-commencement to ensure against potential harm from construction activities.

4. Schedule of works

The conservation repair works to the Grade II Listed Building shall be completed in accordance with the approved schedule of works and shall be retained as such at all times thereafter.

Reason: In order to preserve the heritage asset in a manner appropriate to its significance and in order to comply with Policies SS10 & HE1 of the Torbay Local Plan 2012-2030.

5. Completion of works to LB in accordance with condition 4

No more than two of the new dwellings, hereby approved, to the south-east (indicated on the plans as the 'Lower Houses') of the Grade II Listed Bishops Court shall be occupied until the works to restore the Grade II Listed Building are completed in accordance with Condition 4.

Reason: To ensure that the Grade II Listed Building is sympathetically restored in line with Policy SS10 of the Torbay Local Plan 2012-2030.

6. Windows and doors

Prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of the Listed Building in accordance with Policy HE1 of the Torbay Local Plan and TH10 of the Torquay Neighbourhood Plan.

7. Construction Method Statement

No development except internal works to existing buildings shall take place 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 respective Statements shall provide for:

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

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

8. Parking Implementation

Prior to the occupation of the dwellings hereby approved, their associated car parking spaces and garages, as shown on the approved layout plan, shall be provided and thereafter made permanently available for the use of the associated properties.

Reason: to ensure all properties have dedicated parking facilities and in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

9. Bin stores

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

10. Implementation of bicycle storage

Prior to the first use of the development hereby approved, bicycle storage facilities shown on the approved plans shall be provided. Once provided, storage arrangements shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan 2012-2030.

11. Nesting season - birds

All demolition and/or the removal of vegetation shall be undertaken outside of the bird nesting season (March-August 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 within an area identified by the ecologist.

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

12. External Lighting

Prior to the installation of any external lighting on the outside of the building or elsewhere on the site, full details including design, siting and illumination-type shall be submitted to and approved in writing by the Local Planning Authority. Only lighting that has been approved in writing by the Local Planning Authority shall be installed. The lighting shall then be installed, operated, and maintained in accordance with the approved details.

Reason: In the interests of amenity and design in accordance with Policy NC1 of the Torbay Local Plan 2012-2030

13. Landscaping

Prior to the first occupation of the development hereby permitted full details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within

the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.

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

14. Ecology

The development shall proceed fully in accordance with the recommendations detailed in the Ecological Appraisal reference 19-3489.01 (received 02.12.2019).

This shall include;

- A minimum of six bat roosting provisions which are suitable for different species of bats will be installed on the buildings and mature trees, located away from lit areas, prior to the occupation of the first dwelling or in accordance with a timetable to be agreed with the LPA
- A minimum of six bird boxes suitable for different species of birds which nest in association with human habitation will be incorporated into the buildings proposed for the site or the surrounding mature trees. These will include house sparrow *Passer domesticus* boxes on the buildings, and robin *Erithacus rubecula* and general purpose boxes on the trees. The boxes shall be provided prior to the occupation of the dwellings to which they relate.
- Landscaping should include enhancement of the retained planting with native/wildlife attracting species to provide habitat and foraging value for reptiles, badgers, bats and birds.
- Vegetation management should be utilised to create habitat piles and compost heaps in relatively undisturbed areas of the site.
- Roosting provisions and/or bat boxes must not be directly illuminated by any proposed security or decorative lighting. All security lighting will be set on a timer and be tightly shaded to minimise the duration and spread of the light.
- The use of bat friendly roofing materials

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

15. Badger sett

The on-site badger sett shall be surveyed for activity at least two months prior to commencement of works, details of which shall be submitted to the Local Authority. If it is considered to be active, a licence from Natural England will be required to temporarily close the sett before any excavations can take place within 20 metres of the sett throughout the construction works.

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

16. Boundary Treatment

Prior to the first occupation of the development hereby permitted, a scheme of boundary treatment shall be submitted to the Local Planning Authority for approval. The approved boundary treatments shall be fully installed in accordance with the approved details and shall be retained for the life of the development.

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

17. No PD Part 1 Class A

Notwithstanding the provisions of Classes A to H of Part 1 to Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking or re-enacting that Order with or without modification), no enlargements, improvements or other alteration shall take place to the dwellings hereby approved within the application site, and no outbuildings or other means of enclosures shall be erected within the garden areas of these dwelling houses, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual and local amenity and in accordance with Policies DE1 DE3, SS10 & HE1 of the Torbay Local Plan 2012-2030.

Relevant Policies

SS3 - Presumption in favour of sustainable development

SS9 - Green Infrastructure

SS10 - Conservation and Historic Environment

SS11 - Sustainable Communities Strategy

SS12 - Housing

SS13 - Five Year Housing Land Supply

SS14 - Low Carbon Development and Adaptation to Climate Change

W2 - Waste audit for major and significant waste generating developments

W3 - Existing waste management facilities in Torbay

SDP1 - Paignton

SDP3 - Paignton North and Western area

TA1 - Transport and accessibility

TA2 - Development access

TA3 – Parking requirements

ES1 - Energy

NC1 - Biodiversity and Geodiversity

H1 - Applications for new homes

H2 - Affordable Housing

DE1 – Design

DE3 - Development Amenity

HE1 – Listed Buildings

C4 - Trees, hedgerows and natural landscape

ER1 - Flood Risk

ER2 - Water Management

TH8 - Established architecture

TH9 - Parking facilities

TH10 - Protection of the historic built environment

TS1 – Sustainable Development

TS4 - Support for Brownfield and Greenfield development