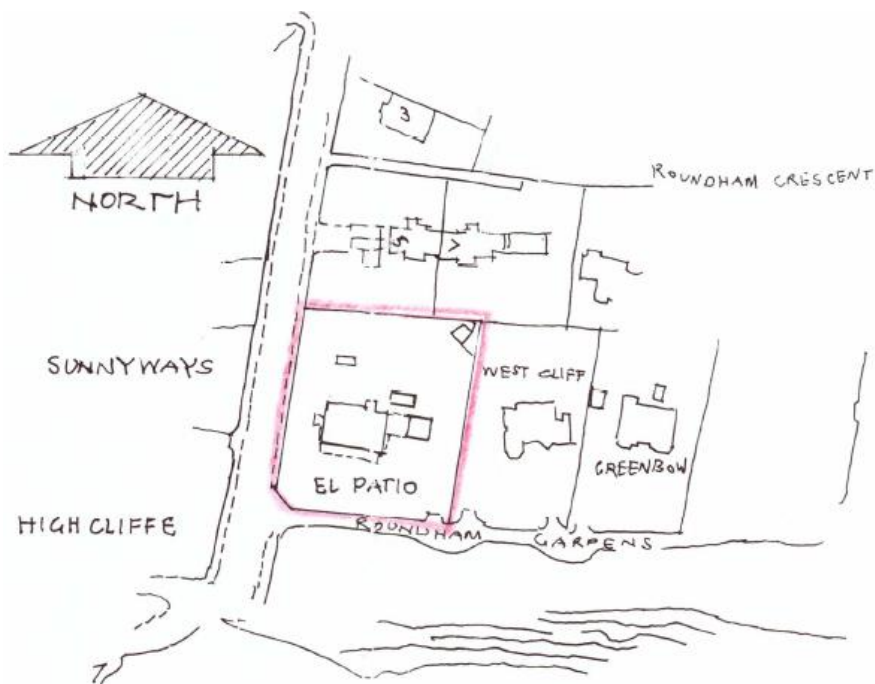


Application Site Address	El-Patio 11 Alta Vista Road Paignton TQ4 6DB
Proposal	Outline consent for the demolition of existing building and construction of 10 x residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved.
Application Number	P/2019/0893
Applicant	Mr and Mrs Roach
Agent	Mr Rodney Howes – Howes Partnership Architects
Date Application Valid	17/10/2019
Decision Due date	16/01/2020
Extension of Time Date	15/07/2020
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 responsible for Planning, Housing and Climate Emergency.
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 a large two storey, detached residential dwelling with a render and tile hung appearance with a mixture of aluminium and uPVC fenestrations. The site area is 1,910 square metres and the existing footprint of the dwelling is approximately 246 square metres excluding the outbuilding and detached garage. The site provides ample parking for the existing dwelling, the submitted information indicates nine off-street parking spaces, as well as a swimming pool to the rear of the site. The site provides pedestrian access from both Alta Vista Road and Roundham Gardens and vehicular access from Roundham Gardens. The site lies to the eastern side of Alta Vista Road and the site levels are relatively flat. The site is adjacent to Roundham and Paignton Harbour Conservation Area.

### **Description of Development**

The proposal seeks outline consent for the demolition of the existing building and the construction of a block of flats comprising of ten residential units. This application seeks permission for access, appearance, layout and scale, with landscaping reserved.

The proposed building would have two storeys plus habitable accommodation in the roof space. The proposed flats would be situated on the ground, first and second floors of the building. The proposal includes two large communal outdoor amenity spaces. A number of flats will also benefit from their own individual private balconies/terraces. The proposed vehicular access would be altered to provide access from Alta Vista Road and offers fifteen off-street parking spaces. The proposal would retain the access from Roundham Gardens but would be used for pedestrian access.

It should be noted that the properties on Roundham Gardens tend to be two storeys in height, whilst the flatted development on the opposite side of Alta Vista Road ranges between three to four storeys in height. The architectural style of the building is traditional in its basic form, with a hipped roof with gable end features to the side elevations. The principal, south elevation is symmetrical including feature bays at either end and includes a mixture of window types, the majority of which are full height. At first floor a balcony runs across the mid-section of the building with what appears to be a contemporary glass balustrade. Pitched roof dormers are proposed in the south and north elevations.

### **Pre-Application Enquiry**

Not applicable.

### **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 Paignton Neighbourhood Plan 2012-2030

#### Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice 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/2002/1060: Erection Of 4 Bedroom Residential Property. Refused 03/10/2002.

P/2001/1360: Redevelopment To Provide 10 Residential Apartments With Vehicular And Pedestrian Access (As Revised By Plans Received 4/2/02). Approved 11/04/2003.

P/2000/0738: Renewal Of Application Reference No.95/0859/Pa For Erection Of Garage. Approved 29/06/2000.

P/2000/0277: Redevelopment To Form 8 Self Contained Flats (In Outline). Approved 22/01/2001.

P/1990/0719: Conversion Of Previously Approved Three Bedroom Apartment Ref App. No. 89.2853 To Form 2 Two Bedroom Flats (Total 8 Units). Approved 30/05/1990.

P/1989/2853: Conversion And Extension To Form Seven Apartments With Parking. Approved 03/04/1990.

#### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. Five neighbour notification letters were sent to those neighbours which the development could directly affect. 4 letters of objection and 1 letter of support have been received.

Concerns raised in objection include:

- Overdevelopment
- Traffic and access
- Privacy/overlooking
- Trees and wildlife
- Impact on local area
- Not in keeping with local area
- Sets a precedent
- Impact on Conservation Area

Comments raised in support include:

- It provides houses
- Provides/retains jobs

## **Summary of Consultation Responses**

### **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 which is to inform the applicant to ensure compliance:-

ADQ creates security requirements in relation to all new dwellings. All doors at the entrance to a building, including garage doors where there is a connecting door to the dwelling, 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.

*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. For further information please contact me.*

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 creating areas that 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 and ADQ

1. Tradesperson buttons (if applicable) for multi occupancy buildings are discouraged by the Police due to an increase in crime, fear of crime and antisocial behaviour as such thought should be given as to how mail will be delivered for the shared entrances. It is recommended that a SBD approved external wall mounted or free standing letter box system or a secure through the wall mail system are considered.
2. The reading of utility meters should be capable of being done remotely.
3. For shared entrances or private entrances to dwellings on a higher floor should have a visitor door entry system installed with both an audible and visual facility.
4. External open communal bicycle storage with individual stands or multiple storage racks for securing bicycles will be as close to the building as possible, but in any event within 50 metres of the primary entrance to the building and located in view of active rooms of dwellings. The store must be lit at night using vandal resistant, light fittings and energy efficient LED lights. NB Vertical cycle racks can be difficult for some sections of the community to use.

*The word 'active' in this sense means rooms in building elevations from which there is direct and regular visual connection between the room and the street or parking court. Such visual connection can be expected from rooms such as kitchens and living rooms, but not from more private rooms, such as bedrooms and bathrooms.*

- 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 parking provision is noted but it is vital that this is considered to be both sufficient, when balanced against the schedule of accommodation, as even a one bedroom dwelling could attract 2 vehicles, and designed so it is convenient and practical to use as this will encourage its use and reduce the level of unplanned parking elsewhere. It is the 'elsewhere' that can introduce a source of conflict and rancour as a result of inconsiderate and/or obstructive parking.

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

I would confirm that I have reviewed the application and have no objections subject to the inclusion of a condition requiring the submission of a demolition/construction management plan for the approval of the L.A. prior to the commencement of works. A suitable condition would be as follows:

**Demolition/Construction Management Plan:**

No development shall take place until a site specific Demolition/Construction 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

**Paignton Neighbourhood Forum:**

No response received.

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

No requirement for further arboricultural input however we will require a robust landscaping scheme.

**South West Water:**

South West Water has no objection subject to surface water being managed by means of soakaways as proposed. For information a large diameter public sewer (1675mm) lies within the site as shown in red on the attached plan and no building will be permitted within 5m of it.

**Torbay Council's Highways Engineer:**

One car parking space per apartment would be required as well as the provision of secure and covered cycle storage of at least one cycle per flat. The minimum single garage internal dimensions are 6m x 3.3m. The required visibility is 43m, the drawing shows visibility arms of 45m.

As the access serves more than one unit, adequate width to pass two vehicles should be served. A minimum width of 5m is recommended.

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

No response received.

**Torbay Council's Drainage Engineer:**

Providing the surface water drainage is constructed in accordance with the hydraulic design and drawings supplied, I have no objections on drainage grounds to planning permission being granted for this development.

**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 demolition of the existing building and the construction of 10 residential flats.

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. At present the Council cannot demonstrate a 5 year housing land supply and therefore the tilted balance in favour of sustainable development is applicable as set out in the National Planning Policy Framework:

Paragraph 11 of the NPPF states:

*Plans and decisions should apply a presumption in favour of sustainable development.*

For **decision-taking** this means:

*c) approving development proposals that accord with an up-to-date development plan without delay; or*

*d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>7</sup>, granting permission unless:*

*i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>6</sup>; or*

*ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.*

*Footnote 7: This includes, for applications involving the provision of housing, situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites (with the appropriate buffer, as set out in paragraph 73); or where the Housing Delivery Test indicates that the delivery of housing was substantially below (less than 75% of) the housing requirement over the previous three years.*

The impact of paragraph 11 of the NPPF in the assessment of this application is that development plan policies that are most important for determining this application are out of date and that planning permission should be granted unless any adverse impacts of do so would significantly and demonstrably outweigh the benefits.

The site is located within an established residential area. The principle of residential development on the site would be consistent with Policy H1 of the Local Plan. Those in support of the proposal have stated that the development would provide jobs and housing. There are no Development Plan policies indicating that the proposal is not acceptable in principle.

## **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 PNP1(c) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal to be in keeping with the surroundings respecting scale, design, height, density, landscaping, use and colour of local materials.

The proposal is to demolish the existing two storey detached residential dwelling and erect a block of ten residential flats. Objectors have raised concerns that the proposed development would not be in keeping with the local area; it would be an overdevelopment of the site; it would set a precedent; and it would have a negative impact on the local area and the Conservation Area. The site is in a visually prominent, highly elevated location, a corner plot where Alta Vista Road meets Roundham Gardens, evident from a large expanse of public vantage points. Roundham Gardens is characterised by large, detached, two storey dwellings, whilst on the opposing (western) side of Alta Vista Road in the Roundham and Paignton Harbour Conservation Area is a three to four storey apartment block.



As the submitted plans do not include materials, a planning condition is recommended to secure such details. This application reserves landscaping, therefore a planning condition to secure such details at reserved matters of hard and soft landscaping, as well as means of enclosure is recommended. The Council's Senior Tree and Landscape Officer has been consulted on this application and has stated that no requirement for further arboricultural input is required, however a robust landscaping scheme at the reserved matters stage is necessary. It should be noted that the properties on Roundham Gardens tend to be two storeys in height and sit within large spacious plots, whilst the flatted development on the opposite side of Alta Vista Road ranges between three to four storeys in height. The locality has a mixture of large houses and flatted development. The basic architectural style of the building is traditional which displays a hipped roof with gable end features to the side elevations, with the fenestrations offering a symmetrical stance. The use of full height windows and a balcony with glass balustrade introduce more contemporary features. The design is 'safe' and non-challenging which will sit quietly in its setting. The existing building has a gable roof with limited architectural features. It is considered that the proposed design will offer a marginally positive contribution in terms of design and impact on the character of the area.

The site is adjacent to Roundham and Paignton Harbour Conservation Area. Policy SS10 of the Local Plan 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 conservation areas.

It is considered that the setting and character of the Roundham and Paignton Harbour Conservation Area will be preserved, and the proposal would not result in harm to this heritage asset. Subject to the aforementioned planning conditions, 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 streetscene in accordance with Policies DE1 and SS10 of the Local Plan, Policy PNP1(c) of the Paignton Neighbourhood Plan, and the guidance contained in the NPPF.

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

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment.

The proposal is for the demolition of the existing building and the construction of 10 x residential flats. Table 23 of the Torbay Local Plan 2012-2030 sets the dwelling space standards for Torbay which are taken from the Government's Nationally Described Space Standards. The following floorspace is provided for each residential unit:

Unit 1 = 93 square metres (2 bedroom, 4 bed-spaces).  
Unit 2 = 105 square metres (2 bedroom, 4 bed-spaces).  
Unit 3 = 93 square metres (2 bedroom, 4 bed-spaces).  
Unit 4 = 90 square metres (2 bedroom, 3 bed-spaces).  
Unit 5 = 100 square metres (2 bedroom, 4 bed-spaces).  
Unit 6 = 104 square metres (2 bedroom, 4 bed-spaces).  
Unit 7 = 96 square metres (2 bedroom, 4 bed-spaces).  
Unit 8 = 90 square metres (2 bedroom, 3 bed-spaces).  
Unit 9 = 86 square metres (3 bedroom, 5 bed-spaces).  
Unit 10 = 92 square metres (3 bedroom, 6 bed-spaces).

The proposed flats comply with the minimum standards given in Policy DE3 of the Local Plan, except for Unit 10 that is 3 square metres under the minimum standards. However, this deficit is considered to be minimal. Policy DE3 of the Local Plan also states that new flats should provide 10 square metres of outdoor amenity space, of which it can be communally sought, therefore given the ten proposed flats, the site should provide 100 square metres of outdoor amenity space. Given the submitted information, the proposed site layout indicates two areas of outdoor amenity space, which measures in excess of 600 square metres. It should also be noted that the site is within very close proximity to Roundham Gardens, Youngs Park and Goodrington Sands, which offer large expanses of public outdoor space.

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. The proposed site layout indicates that Unit 5 would have an element of landscaped screening to prevent the amenity of the future occupiers from potential headlight intrusion into the habitable room windows.

Objectors have raised concerns regarding the impact the proposal would have on the privacy of adjacent neighbours. The rear (northern) elevation is some 20 metres from the boundary between the site and Nos.5, 5A, 7 and 7A Alta Vista Road, to which their distance to the boundary is between approximately 10-12 metres. Therefore, the overall separation distance is in excess of 30 metres, it should be noted that given the topography of the area that the site is on higher ground than the aforementioned adjacent neighbours, however the separation distance is considered acceptable and therefore the proposal is not considered to cause detrimental harm in terms of privacy on such neighbours. The side (eastern) elevation that faces the side elevation of 'West Cliff' has a separation distance of approximately 10 metres. There are few openings on the eastern elevation of the proposal, 'West Cliff' has no existing openings on this elevation, therefore it is considered that the proposal would not infringe upon the privacy of the occupiers of 'West Cliff', regardless it is considered that suitable boundary treatments would mitigate any potential overlooking from the ground floor openings.

Given the siting, scale and design of the proposal 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 comply with Policy DE3 of the Local Plan.

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

Policy DE3 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 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 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 PNP1(d) of the Paignton Neighbourhood Plan states that new residential development should aim to achieve where appropriate and subject to viability space for solid waste storage within the curtilage and purpose designed cycle parking space that is covered, safe and convenient.

The proposal alters the vehicular access from Roundham Gardens to Alta Vista Road, as well as providing fifteen off-street parking spaces. Objectors have raised concerns regarding traffic and access. The Local Plan states that 1 off-street parking space should be provided per flat, as well as accommodating for visitors (at least 1 off-street parking space for the proposed development). Appendix F states that parking spaces should be 4.8 metres by 2.4 metres except for when they abut the public footpath and/or public highway and then the spaces should be 5.5 metres by 3.2 metres to prevent vehicles from overhanging and causing an obstruction to the public footway and potentially the public highway. Appendix F of the Local Plan also states that the internal dimensions of a garage should be 6 metres length by 3.3 metres width, the proposed garages comply with this standard. Appendix F of the Local Plan also states that where parking courts are proposed there should be at least 6 metres of manoeuvring space to enter and exit the parking spaces, this is also achieved within the parking court onsite.

The Council's Highways Engineer has been consulted on the application and has stated that one car parking space per apartment would be required as well as the provision of secure and covered cycle storage of at least one cycle per flat. The proposed site layout indicates an area of bicycle storage to the rear of the site,

however it is considered that the proposed storage is an insufficient size to accommodate ten bicycles, therefore further details of covered and secured bicycle storage is recommended as a planning condition.

The Engineer has also stated that the required visibility for the proposed access from Alta Vista Road is 43 metres, the submitted plans demonstrate that visibility arms of 45 metres are achievable. The Engineer requested that as the access serves more than one unit, adequate width to pass two vehicles should be served, which would require a minimum width of 5 metres. The proposed site layout has been amended to reflect such request. The proposed development is considered to comply with Policies TA1, TA2 and TA3 of the Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

Policy W1 of the Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated and with particular reference to residential developments, they should provide adequate space within the curtilage for waste and accessible kerbside recycle bins and boxes.

The proposed refuse and recycling storage area is considered adequate given the requirement of 1 x bulk 1100 litre refuse bin per six flats and 1 x bulk 1100 litre recycling bin per six flats. The proposed store could easily accommodate 4 x 1100 litre bins. Conditions are recommended to secure appropriate 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 provide sufficient parking spaces.

## **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.

Objectors have raised concerns regarding trees and wildlife. The application is supported by an Ecological Impact Assessment. The report states that the proposed demolition will not affect the conservation status of any local bat population. No signs of bats were associated with any element of the structures to be affected and no bats were recorded leaving the building during the dusk emergence survey. The report states that the hedges and mature garden shrubs provided suitable breeding bird habitat, any necessary vegetation clearance would best be undertaken outside the bird breeding season and if this is not possible then works should be preceded by a breeding bird survey.

It should be noted that the site falls outside of the Roundham and Paignton Harbour Conservation Area and there are no protected trees onsite. The Council's Senior Tree and Landscape Officer has been consulted on the application and has stated that there is no requirement for further arboricultural input, however a planning condition should be recommended to secure a robust landscaping scheme. A small palm tree will be lost from the proposed development, due to its size it would not be visible from public vantage points and therefore it is considered to have limited impact on the amenity of the area. The proposed site layout indicates retention of the existing hedgerow and cherry trees to the north of the site, the retention of existing hedges to the east, south and west of the site.

Subject to the aforementioned planning condition, the proposed development is considered acceptable with regard to Policy NC1 of the Local Plan.

## **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. Policy PNP1(i) of the Paignton Neighbourhood Plan states that developments will be required to comply with all relevant drainage and flood risk policy.

The site is located within the Critical Drainage Area. 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 drainage. Subject to the hydraulic design and drawings provided, the Council's Drainage Engineer raises no objections.

Subject to the use of a planning condition to secure acceptable surface water drainage arrangements, the proposal is considered to be in accordance with Policy ER1 of the Local Plan and Policy PNP1(i) of the Paignton Neighbourhood Plan.

## **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**

Policy SS11 of the Local Plan states that part of the criteria development proposals will be assessed against includes whether the proposal helps to reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict. Policy PNP1(g) of the Paignton Neighbourhood Plan states that all developments will be expected to show how crime and the fear of crime have been taken into account in the proposals submitted having regard to "Designing Out Crime" Guidance.

The Police Designing-Out Crime Officer was consulted on the application and 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 planning condition, the proposal is considered to be in accordance with Policy SS11 of the Local Plan, and PNP1(g) of the Paignton Neighbourhood Plan.

### **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The NPPF definition of sustainability has three aspects which are economic, social and environmental, each of which shall be discussed in turn:

#### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development.

Once the dwellings were occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development.

In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

#### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance.

Impacts on neighbour amenity have been discussed above where it is concluded that it would be possible to develop this site as proposed without significant harm to residential amenity.

On balance, the social impacts of the development weigh in favour of the development.

#### **The Environmental role**

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on ecology and biodiversity and surface and foul water drainage. These matters are considered in detail above.

The environmental benefits identified are either marginal in the case of any biodiversity net gain or essentially mitigation as in the case of any landscape/ecological measures to be applied to the development.

The proposal will include bicycle storage, and the proposed development is in a sustainable location inasmuch as it would make use of a brownfield site within the existing urban area.

It is concluded that the environmental impacts of the development weigh neutrally within the planning balance.

### **Sustainability Conclusion**

Having regard to the above assessment the proposed development is considered to represent sustainable 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**

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 in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing.

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

In the absence of a 5 year housing land supply applications for sustainable development should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The proposal on balance is considered acceptable in principle; would not result in unacceptable harm to the character of the area, heritage assets, or local amenity; would provide an adequate standard of living accommodation and provide acceptable arrangements in relation to access, ecology and flood risk. The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, 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, Housing and Climate Change.

### **Conditions**

### **Reserved Matters**



Details of the reserved matters set out below ("the reserved matters") shall be submitted to the Local Planning Authority for approval within three years from the date of this permission:

(i) landscaping (to include hard and soft landscaping, and means of enclosure)

The reserved matters shall be carried out as approved. Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced.

Reason: To enable the Local Planning Authority to control the development in detail and to comply with Section 92 of the Town and Country Planning Act 1990 (as amended).

### **Time To Commence**

That in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and

That the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

Reason: To comply with Section 91 of the Town and Country Planning Act, 1990.

### **Materials**

Prior to their installation, samples of all the materials to be used in the construction of the external surfaces shall have been 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. Details shall include facing materials, roofing materials, windows, doors, fascias, eaves, rainwater goods and details of any under-build.

Reason: To ensure an acceptable form of development in the interests of the character and appearance of Belgravia Conservation Area and the streetscene in accordance with Policies DE1 and SS10 of the Adopted Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Adopted Paignton 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.

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. These details are required prior to commencement of development to secure suitable parameters for the construction phase.

### **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.

### **Designing Out Crime**

Prior to development continuing above slab level, 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 and Policy PNP1(g) of the Adopted Paignton Neighbourhood Plan 2012-2030.

### **Biodiversity Enhancement**

The reserved matters shall include details of measures to enhance biodiversity. The approved biodiversity enhancement measures shall be implemented in full prior to the first use of the development and shall be retained as such at all times thereafter.

Reason: To secure suitable biodiversity enhancement measures in accordance with Policy NC1 of the Torbay Local Plan and the NPPF.

### **Bicycle Storage**

Notwithstanding the submitted bicycle storage shown on plan reference '1927-15 C (Garage, FF & External' received 17<sup>th</sup> March 2020, the reserved matters shall include detailed provision for the following:

(i) the storage of bicycles.

The agreed facilities for each flat shall be completed and made available for their respective uses prior to the first occupation of the development. Once provided, the facilities shall be retained for the life of the development for such purposes.

Reason: To ensure adequate accompanying facilities are provided to secure a satisfactory form of development, in accordance with Policies TA3 and DE3 of the Adopted Torbay Local Plan 2012-2030 and PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

### **Refuse Storage**

Prior to the first occupation of the development hereby permitted, the approved refuse storage on plan reference '1927-15 C (Garage, FF & External' received 17<sup>th</sup> March 2020, shall be provided in full and 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.

### **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 Various" (plan reference '1927-15 C (Garage, FF & External' received 17<sup>th</sup> March

2020) have been provided. These elements shall thereafter be retained for the use and 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 and Policy PNP1(d) of the Adopted Paignton Neighbourhood Plan 2012-2030.

### **Communal Garden**

The development hereby approved shall not be occupied or brought into use until the communal outdoor amenity spaces detailed on the plan referenced reference "Proposed Various" (plan reference '1927-15 C (Garage, FF & External' received 17<sup>th</sup> March 2020) have 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.

### **Flood Risk Assessment**

The development shall be undertaken in strict accordance with the approved drainage details, unless alternative drainage details are submitted to and approved in writing by the Local Planning Authority. The approved drainage details shall be retained and maintained as such for the lifetime of the development. The development shall not be occupied until the approved drainage scheme has been fully implemented.

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 Adopted Torbay Local Plan 2012-2030, Policy PNP1(i) of the Adopted Paignton Neighbourhood Plan, the guidance contained in the NPPF, and the requirements of the designation of the Critical Drainage Area by the Environment Agency.

### **Electric Charging Point**

Prior to the occupation of the development hereby approved, a scheme for the insertion of electrical charging points to be located within the site shall be submitted to and approved in writing by the Local Planning Authority. Details shall include design, location, specification and a timescale for insertion prior to occupation. The agreed electrical charging point shall be thereafter maintained and retained for the lifetime of the development.

Reason: To ensure the parking provision of the new residential units in accordance with the requirements of Policy TA3 of the Torbay Local Plan and Policy PNP1(d) of the Paignton Neighbourhood Plan.

### **Boundary Treatment**

Prior to the first occupation of the development hereby permitted, the scheme of boundary treatment shall be fully installed in accordance with the details as identified on the approved plans, unless otherwise agreed in writing by the Local Planning Authority. Once installed, the boundary treatment shall be maintained and 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 Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

### **Timescale For Implementation Of Landscaping Scheme**

All planting, seeding or turfing comprised in the approved landscaping details, to be submitted at the Reserved Matters stage, shall be carried out in the first available planting and seeding season following the first occupation of the buildings. Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To ensure a suitable landscaping scheme is formed and maintained in the interests of visual amenity and in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030 and Policy PNP1(c) of the Paignton Neighbourhood Plan 2012-2030.

### **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**

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

SS10 – Conservation and the Historic Environment

SS11 – Sustainable Communities

TA1 – Transport and Accessibility

TA2 – Development Access

TA3 – Parking Requirements

W1 – Waste Hierarchy

PNP1(c) – Design Principles

PNP1(d) – Residential Development

PNP1(g) – Designing Out Crime

PNP1(i) – Surface Water