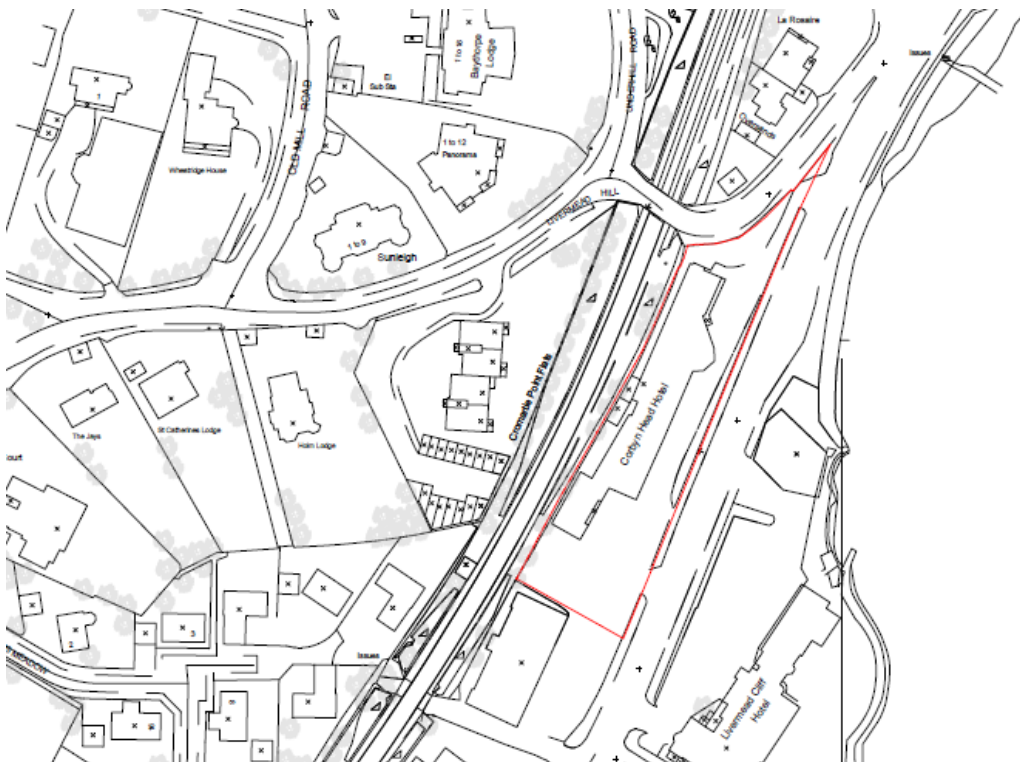




Application Site Address	Corbyn Head Hotel, Torbay Road, Torquay, TQ2 6RG
Proposal	Variation of Conditions relating to application P/2019/0699. Condition P1. Variation sought: Revisions to elevations and internal layout. Addition of one bedroom and car parking space. Reduction of building height and reduction in north-south building length.
Application Number	P/2020/0420
Applicant	Fragrance UK - Torquay 2 Limited
Agent	Kay Elliott Architects
Date Application Valid	02.05.2020
Decision Due date	
Recommendation	That planning permission be granted subject to the completion of a deed of variation to the original legal agreement to secure financial contributions towards sustainable transport and local parking restrictions, and compliance with the conditions detailed at the end of this report.
Reason for Referral to Committee	Major variation of condition application with objections.
Planning Case Officer	Alexis Moran

Location Plan



## Site Details

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

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

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

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

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

## Detailed Proposals

This application seeks a minor material amendment to application P/2019/0699 which granted planning approval for;

“Demolition of existing hotel and formation of new hotel with ancillary facilities. (Resubmission of application P/2018/1086.)”

The amendment relates to Condition: P1 - Plans and intends to substitute the drawings to permit revisions to the elevations and internal layout to provide one additional bedroom and one additional car parking space. The proposal includes the reduction of the building height and a reduction in north-south building length.

The key changes are:

- A reduction in the overall length of 495mm as a result of relocating the vertical circulation to the Southern end of the building.
- Updated parking arrangements and removal of split levels to improve the flow of pedestrians and vehicles within the site and the hotel.

- A better distribution and use of internal spaces which has resulted in the addition of 1 guestroom and 1 parking space.

Other alterations include the addition of a rendered column adjacent to the hotel entrance to accommodate the revised lift location, the addition of louvres at ground floor level on the wall elevation facing Torbay Road and an increase in the built form on the fourth floor to accommodate an increase in the rooftop bar from 192m<sup>2</sup> to 252m<sup>2</sup>.

### **Policy Context**

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

#### Development Plan

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

#### Material Considerations

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

#### Relevant Planning History

P/2019/0699MPA - Demolition of existing hotel and formation of new hotel with ancillary facilities. (Resubmission of application P/2018/1086). APPROVED 20.11.2019

P/2018/1086/MPA - Demolition of existing hotel & formation of new hotel with ancillary facilities. REFUSED 10.06.2019

### **Summary of Consultation Responses**

South West Water: No comment

Network Rail: No objections to the variation of condition P1.

Police Designing-Out Crime Officer: Thank you for requesting consultation on the above. Having reviewed the revised drawings to vary condition P1 of P/2019/0699 I would like to advise that the police have no further comment to make from a designing out crime and disorder perspective.

Natural England: No comment

Highways: No objections

Strategic Transport: *I am writing to provide transport comments in response to the planning application (P/2020/0420) at Corbyn Head Hotel, Torquay. I note the application seeks a variation of the previous scheme, which, of concern to transport rearranges the car park layout and adds an additional bedroom.*

*Please note the comments below relate only the changes proposed and as such all other comments made previously apply equally to this proposal.*

*The off-site highways works appear unchanged and therefore are considered acceptable, however, they do still require a S278 agreement to ensure appropriate delivery.*

*With regards to the number of car parking spaces, it appears that this has increased from 101 to 102. Clearly, even with the additional bedroom this increases the ratio.*

*The change in parking provision and the layout of those spaces, enables more space in front of the hotel for vehicle and coach parking.*

Arboricultural Officer: No objections subject to the use of a condition to secure a detailed landscaping scheme as per the original application.

Drainage: I can confirm that the proposed variation will have no impact on the impermeable area of the proposed development and therefore providing the drainage is constructed in accordance with the submitted drainage strategy, hydraulic design and drawings, I have no objection on drainage grounds to the variation of planning condition P1 being granted for this development.

Environment Agency: No comment received

TDA : As per previous letter of support, TDA supports the proposed planning application. P/2020/0420 VC - Corbyn Head Hotel Torbay Road

Senior Environmental Health Officer: Further to your recent consultation regarding the above mentioned variation I would confirm that I have no objections. Should you have any further queries then please let me know.

Torquay Neighbourhood Plan Forum: no comment received at the time of writing this report.

### **Summary of Representations**

At the point of writing this report ten objections have been received.

A summary of the concerns raised to date, where material to planning, is as follows:

- Concerns over the delivery bay on Livermead Hill
- The reduction in height makes no discernible difference to the scale of the building in terms of impact on residential amenity
- Accessing the site
- Parking
- Insufficient landscaping details
- Siting of spa condenser on roof

- Loss of privacy
- Increase in mass of roof

It should be noted that the proposal does not intend to alter the previously approved aspect of the proposal which relates to the loading bay on Livermead Hill.

The conditions on the approved application requiring further information to be submitted and approved with regards to privacy screens to limit overlooking, external lighting and noise levels from plant to minimise the impact on residential amenity are to be retained as part of this application.

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

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 key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

It is important to note that this application only considers the proposed changes to the approved application P/2019/0699 and that other considerations, which do not make up part of the proposed alterations under this application, are not intended to be revisited.

The matters for consideration are:

1. Design and Visual Impact
2. Impact on Amenity
3. Trees and Ecology
4. Flooding and Drainage
5. Highways Impact
6. S106

#### **1. Design and Visual Impact**

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

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

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

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

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

- Enhance the vitality of an area
- Contribute to the regeneration of Torbay
- Strengthen the character of an area
- Are appropriate in terms of their visual impact
- Provide wider urban design or socio-economic benefits
- Make a positive addition to the built form, townscape and surrounding landscape; and
- Preserve or enhance local and long-distance view, and key vistas.

In terms of its height and scale, the minor material amendment to the approved scheme (P/2019/0699) proposes a reduction in the overall height of the building by 500mm and a reduction in its overall width of 495mm.

There is an increase in the width and depth of the building and plant screen to the southern area of the fourth floor level as a result of accommodating a gym facility and to amend the location of the spa at this level to provide a larger rooftop bar area (from 192m<sup>2</sup> to 252m<sup>2</sup>).

The increase in mass at fourth floor level is lower than the highest point of the approved scheme. The building would remain substantially recessed at fourth floor level when viewed from the east and west elevations.

The alteration to this aspect of the proposal would be more visible from the south of the building. However even with its increase in width it would not result in it being as wide as the northern part of the fourth floor level. Bearing this in mind and as the southern part of the fourth storey would be well set in from the southern part of the storey below (by some 18m) it is deemed that the minor material amendment would have an acceptable impact on the character and design of the approved development.

The alterations to the elevations include the addition of a rendered column on the east elevation adjacent to the hotel entrance, which is to house the revised location of the lifts, the entrance to the hotel is also reduced from 4 doors to 2. The proposal also includes the addition of louvres into the walls facing Torbay Road. Although the reduction in the size of the entrance doors could be considered to be an unfortunate alteration to the original scheme, there is still a large area of glazing here which retains

the direct view between the reception desk and the entrance doors and which allows for views of the sea from the lobby and reception areas.

The proposals are considered to be minor in terms of the amendments to the approved application P/2019/0699, the overall design, height and scale of the development remain acceptable and the overall development continues to comply with Policies DE1, DE4 and SS11 of the Local Plan, Policies TH8, TS2 & TS4 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

## **2. Impact on Amenity**

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

Objectors have raised concerns about the proposal's potential impact on neighbouring and local amenity, through overlooking and noise from roof plant. The approved application on the site included conditions requiring the applicant to provide:

- a scheme to protect the privacy of neighbouring occupiers (condition 18),
- details of boundary treatment (condition 13),
- details of an external lighting strategy (condition 4),
- a noise assessment to show the rating level of any plant and equipment to be at least 5dB below the background noise level (condition 17).

And the following restrictive conditions:

- to prevent access to the roof-top terrace between the hours of 22:00hrs and 08:00hrs (condition 19),
- use of the rooftop bar and spa (this shall be amended to include the rooftop gym) restricted to hotel guests and not open to the general public at any time (condition 22)

These conditions would be retained as part of an approval for this application.

The proposed minor material alterations to the height, overall roofline and the length of the building are likely to result in minimal daylight and sunlight impacts to neighbouring properties when compared to the approved scheme and as such, the proposal is deemed to remain in accordance with Policy DE3 of the Local Plan.

## **3. Ecology and landscaping**

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments, and fauna and flora, commensurate to their importance. Policy TE5 of the Torquay Neighbourhood Plan states that, where appropriate, an assessment of impacts upon any existing protected species or habitats should be undertaken and the use of necessary mitigating arrangements, in order to protect and enhance species and habitats, should be provided.

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

The proposed minor material amendment to the approved scheme does not result in any new or different ecological issues and the proposal remains in accordance with

Policy NC1 of the Local Plan. The previous mitigation measures, secured by condition 5, remain. Condition 4 is not altered by the minor material amendment application, this condition requires an external lighting scheme to be submitted to ensure the prevention of light intrusion to bat habitats and flyways.

The current proposal is an amendment of a previously proposed scheme (P/2019/0699) which was subject to an appropriate assessment in accordance with the Habitat Regulations. This concluded that there would be no Likely Significant Effect on the Marine SAC providing that the proposed mitigation measures are secured by planning conditions. It is considered that the current application to vary of the previously approved scheme does not result in any changes which would be material to the previous conclusion, no additional material information has emerged or any circumstances have changed so as to make the previous decision out of date and the analysis underpinning the reasoning, conclusion or assessment of the previous HRA is considered to be sufficiently rigorous and robust. The current application includes the same mitigation measures which were deemed acceptable for the previous consent, therefore, it is appropriate to adopt the assessment conclusions of the previous HRA and secure the same mitigation for the current revised scheme.

The Council's Senior Tree and Landscape Officer has confirmed that the landscaping scheme for the proposal can be submitted via condition as per the original application (condition 6).

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

#### **4. Flooding and Drainage**

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

The previously approved drainage scheme involved the discharge of foul effluent to the public combined sewer and South West Water confirmed that there is sufficient capacity. Surface water would be discharged to the sea via a new, directionally-drilled outfall.

The minor material amendment to the approved scheme will follow the principles agreed for the previous application. There are two minor adjustments, being the area of the green roof and the reduction in level of the lower car park by approximately 700mm in order to be able to achieve the overall reduction of 500mm of building height. The Council's drainage engineer has confirmed that he has no objection to the variation of condition P1 provided the drainage is constructed in accordance with the submitted drainage strategy, hydraulic design and drawings.

Subject to the retention of the aforementioned condition (condition 2), the proposal is considered to remain acceptable, having regard to Policy ER1 of the Torbay Local Plan, the NPPF, and the PPG.



## **5. Highway Impact**

Policies TA2 (Development Access) states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 (Parking Requirements) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per guestroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

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

The proposed alterations to the approved parking layout results in the addition of 1 bedroom and 1 parking space. The addition of the parking space increases the number of spaces from 101 to 102 and results in a minor improvement to parking ratio provided by the development.

This application also proposes updated parking arrangements and the removal of split levels to improve the flow of pedestrians and vehicles within the site and the hotel which provides more space in front of the hotel for vehicle and coach parking. This includes amended vehicle tracking details which the Highways Officer has raised no objection to.

Concerns have been raised by objectors in relation to the proposed loading bay along Livermead Hill, this does not form part of the minor material amendment application under consideration and is retained as per approved application P/2019/0699.

The Council's Strategic Planning advice is that the off-site highways works appear unchanged and therefore are considered acceptable, the previous condition relating to the requirement of a S278 agreement to ensure appropriate delivery will be retained.

The previous condition requested by the Council's Structural Engineer to secure details of the proposed demolition and construction works with a view to preventing any harm to the structural integrity of the public highway is to be retained.

Subject to the use of the aforementioned conditions, the completion of a deed of variation to the previously agreed S106 legal agreement, and, as with the previously approved application, the provision of works to be secured through the completion of a Section 278 agreement, on balance, it is considered that the proposal would not result in unacceptable harm to highway safety or amenity, and that it would be in accordance

with Policies TA1 and TA2 of the Local Plan, Policies TH9, THW5, THW6, and TTR2 of the Torquay Neighbourhood Plan, and the guidance contained in the NPPF.

## **6. S106**

The agreed S.106 agreement to provide sustainable transport contributions will require a deed of variation to link it to this minor material amendment application.

### **Community Infrastructure Levy**

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

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

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

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

### **EIA**

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

### **Proactive Working**

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

## **Conclusions**

The proposed minor material amendment is considered to be acceptable for conditional approval, subject to a deed of variation to the original s.106 agreement, having regard to the Development Plan, and all other material considerations.

## **Officer Recommendations**

That planning permission be granted subject to the completion of a deed of variation to the legal agreement signed as part of application P/2019/0699, compliance with the

conditions detailed at the end of this report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change.

And the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Change, including the addition of any necessary further planning conditions or obligations.

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

01. No development (including demolition and ground works) or vegetation clearance works shall take place until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The Statement shall provide for:

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

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

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

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

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

03. No development above damp proof course level shall take place until details of the proposed cladding materials (walls and roof) and openings have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development. All sections of new stone wall shall be constructed of natural stone laid on its natural bed and lime mortar. A sample panel shall be constructed on site and agreed in writing by the Local Planning Authority prior to the construction of any new sections of wall.

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

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

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

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

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

06. Notwithstanding the submitted landscaping details, prior to the first use of the hotel hereby approved, details of all proposed hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within four weeks of the development being brought into use, and shall be retained for the life of the development.

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

07. Prior to the first use of the development hereby approved, a Travel Plan and Car Parking Management Strategy shall be submitted to and approved in writing by the

Local Planning Authority. The Travel Plan shall set out how at least 30% of the development's potential users can gain access by foot, cycle or public transport, and how this will be implemented and monitored including SMART targets and an annual review. The Travel Plan shall be continually monitored by a Travel Plan Coordinator (TPC) appointed to ensure that it meets its objectives and targets. In the event that the objectives and targets of the Travel Plan are not met, the Travel Plan shall be updated by the TPC setting out further measures in order to rectify this. A copy of the Travel Plan or updated Travel Plan, shall be made available to the Local Planning Authority upon request during normal business hours and the contact details of the TPC shall be provided in all iterations of the Travel Plan. The Car Parking Management Strategy shall include details of car parking allocation including details of staff and visitor parking, along with the proposed measures for accommodating guest and visitor vehicles when the on-site car park is at full capacity. The development shall, at all times, be operated in accordance with the approved details.

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

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

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

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

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

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

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

11. The development hereby approved shall not be brought into use until a Section 278 Highways Agreement has been entered into in order to secure the necessary works to the public highway, as indicated on the approved plans. The development

shall not be brought into use until the S278 works have been completed to the satisfaction of the Local Highway Authority.

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

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

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

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

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

14. Prior to the first occupation of the development hereby approved, the refuse and recycling facilities shown on the approved plans shall be provided. Once provided, the agreed storage arrangements shall be retained for the life of the development.

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

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

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

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

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

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

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

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

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

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

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

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

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Torbay Local Plan, and Policy TH2 of the Torquay Neighbourhood Plan.

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

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

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

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

### **Informative(s)**

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

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

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

### **03. SAFETY**

Any works on this land will need to be undertaken following engagement with Asset Protection to determine the interface with Network Rail assets, buried or otherwise and



by entering into a Basis Asset Protection Agreement, if required, with a minimum of 3 months notice before works start. [assetprotectionwestern@networkrail.co.uk](mailto:assetprotectionwestern@networkrail.co.uk)

#### SITE LAYOUT

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

#### SIGNALLING

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

#### NOISE

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

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

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

#### LANDSCAPING

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

#### PLANT, SCAFFOLDING AND CRANES

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

#### LIGHTING

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

#### SAFETY BARRIER

Where new roads, turning spaces or parking areas are to be situated adjacent to the railway; which is at or below the level of the development, suitable crash barriers or

high kerbs should be provided to prevent vehicles accidentally driving or rolling onto the railway or damaging the lineside fencing.

04. 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. This permission is accompanied by a Section 106 Agreement or Unilateral Undertaking.