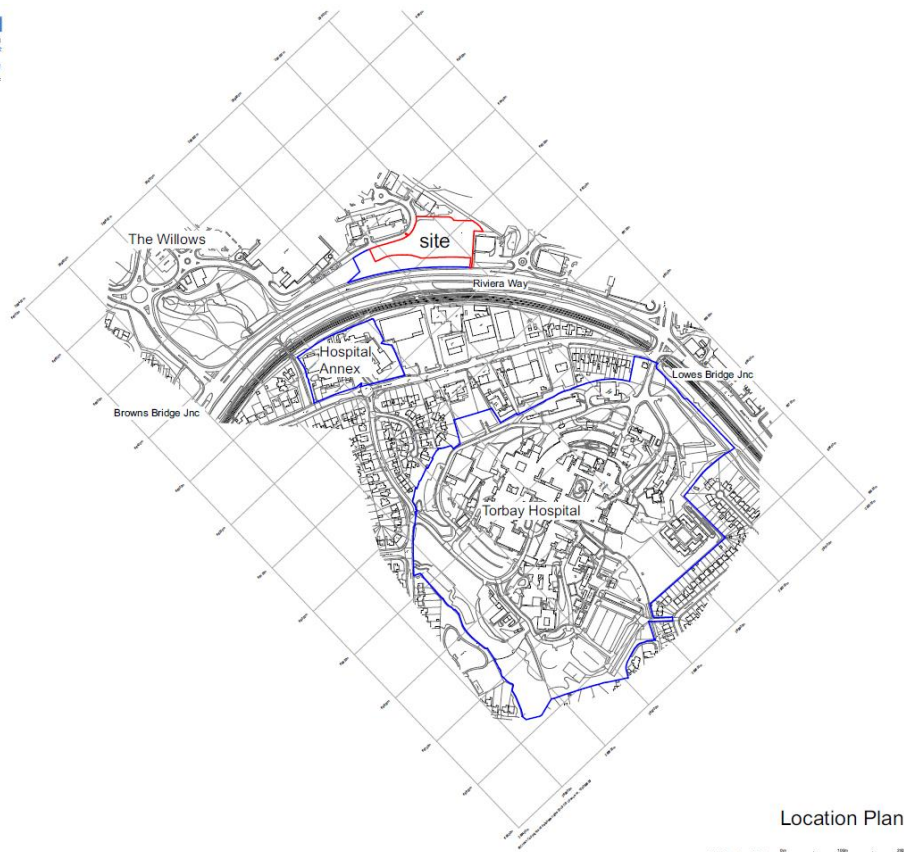




Application Site Address	Land Adjacent To County Court Nicholson Road Torquay TQ2 7AZ
Proposal	Construction of car park.
Application Number	P/2020/0484
Applicant	Torbay And South Devon NHS Foundation Trust
Agent	Mr Philip Byers - Project SW Ltd
Date Application Valid	11/06/2020
Decision Due Date	10/09/2020
Extension of Time Date	16/09/2020
Recommendation	Refusal for the reasons given at the end of this report. Final drafting of these reasons, 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 to Officers considering it to be of a sensitive nature.
Planning Case Officer	Emily Elliott

### **Location Plan:**

  
Torbay and South Devon  
NHS Foundation Trust  
**'Park & Stride'**



### **Site Details**

The application site is accessed from Nicholson Road, adjacent to Torquay & Newton Abbot and Riviera Way (A3022). The application site is approximately 0.853 hectares in area. The highest part of the site is at its point of access from Nicholson Road and slopes towards the South where it bounds the main arterial highway route Riviera Way. The site is located within the Riviera Way Corridor Urban Landscape Protection Area and is designated as Local Green Space within the Torquay Neighbourhood Plan. The site includes an area of mature woodland which has the benefit of a Tree Protection Order (2016.006) and this lies along the southern boundary of the privately owned plot between the Riviera Way highway and the application site, the proposed pedestrian access would utilise a section of this designation. The site is also on contaminated land.

### **Description of Development**

The proposal seeks the construction of a 250 space car park to serve as a 'Park and Stride' scheme for the Torbay and South Devon NHS Foundation Trust, which will include site security, onsite lighting, CCTV and direct pedestrian and cycle access onto Riviera Way. The proposed car park will be used by staff working daytime shifts. Use of the car park will be controlled by employing latest technology methods such as number plate recognition and access control. The supporting information states that the proposal will be let to and managed by Torbay and South Devon NHS Foundation Trust for an initial period of 15 years.

### **Pre-Application Enquiry**

DE/2020/0012 – Pre-application enquiry meeting with Torbay Council, Torbay and South Devon NHS Foundation Trust and Project SW Ltd.

### **Relevant Planning Policy Context**

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

#### **Development Plan**

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

#### **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/2001/0764: Change Of Use To Temporary Car Park For 3 Years. Approved 20/08/2001.

P/1992/0834: Erection Of New Magistrates Courts Buildings (In Outline). Approved 21/12/1992.

P/1986/2612: Comprehensive Development Inc Residential, Light Industry, Offices, Ware Housing, District Shopping Centre, School, Health Centre, Open Space, Shops And Petrol Filling Station, Etc. Non-determined. (Application Allowed at Appeal 15 March 1989 – APP/M1140/A/87/062285).

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. 1 letter of support has been received.

Comments include:

- Assists with parking needs
- Provides electric vehicle charging points
- Impact on local area
- Trees and wildlife
- Assists with delivery of healthcare services
- Designations

### **Summary of Consultation Responses**

#### **Natural England:**

No comments to make on this application.

#### **Torbay Council's Senior Tree and Landscape Officer (Initial Response 03/07/2020):**

Further to the landscape proposal for the above development the betterment of the periphery is welcomed as is the bolstering of the Riviera Way woodland edge to mitigate the previously removed trees. However, the car parking area is devoid of landscaping. We would like to see at least half a dozen trees within the car park area. These can be installed in engineered pits thus allowing for the requisite number of car parking spaces to be retained. Please could we also ask as to whether the loss of vegetation along the southern boundary to form the access path and gate way is mitigated for in the existing landscaping or will there be additional planting.

We would consider that the current landscape design fails to address the above concerns and therefore is not suitable for the proposed use.

Consideration could be given to the use of permeable surfacing to aid with the establishment and long term retention of the trees in the car parking area.

**Torbay Council's Senior Tree and Landscape Officer (Follow-Up Response 15/07/2020):**

We are satisfied with the landscape proposals for the above proposal. Going forward we would require a pre-commencement condition for the submission of a tree protection plan prior to commencement.

**Police Designing Out Crime Officer:**

From a designing out crime, fear of crime and antisocial behaviour (ASB) perspective it is pleasing to note that many important factors have already been considered and incorporated into the proposed scheme but to assist please find the following few additional recommendations:-

1. It is recommended that the practices and principles of the Park Mark™- Safer Parking Scheme are considered where possible. *The Park Mark's Safer Parking Scheme is managed by the British Parking Association (BPA) on behalf of Secured By Design (SBD). SBD is a free from charge Police owned crime prevention initiative which focuses on the design and security of new development including car parks which aims to create safe and secure places. Secured By Design.*
2. In conjunction with the CCTV the proposed new car park facility should be kept as open to view as possible as this can reduce crime and the fear of crime.
3. With regard to lighting please note that bollard lighting is best suited for wayfinding and would not be an appropriate choice from a safety and security point of view as this type of lighting, generally does not project sufficient light at the right height to aid facial recognition. Also their limited light coverage can be easily obstructed or hindered by parked vehicles for example.
4. The security and access control measures for the pedestrian gates are noted and supported but it is advised that the routes are designed so they are well defined and as open to view as possible. All routes should be provided with lighting and covered by CCTV.
5. Landscaping should be carefully considered so it does not create hiding places, hinder surveillance or lighting or reduce the effectiveness of CCTV. Future landscape growth and maintenance will need to be taken into account at the design stage. All shrubs and hedges shall generally have a maximum growth height of 1m, whilst all trees should be pruned up to a minimum height of 2.2m, thereby maintaining a clear field of vision.
6. Clear directional arrows or signage should be incorporated where possible to aid movement of vehicles and avoid confusion.
7. Any signage within the parking facility must be clearly visible and used to control, warn or instruct users and positioned so as to not impede surveillance opportunities.

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

No objections.

**Torquay Neighbourhood Forum:**

No response received.

**South West Water:**

South West Water has no objection and would confirm that a discharge of surface water to the public surface water sewer network at 5l/s has been agreed.

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

I refer to conversations about the application for construction of a car park, adjacent to the County Court on Nicholson Road, to serve Torquay Hospital. WSP have commented on the highway aspects of this proposal, including pedestrian access.

The site is a Local Green Space in the Torquay Neighbourhood Plan, and Policy TE2 of the Neighbourhood Plan "rules out" any development other than in very special circumstances. Policy TE2 goes on to outline very special circumstances; but the proposal would fall outside of these; although a new railway station at Edginswell is cited as a specific exception.

LGSs are not greenbelt, as they are much smaller non-extensive tracts of land. Nevertheless paragraph 101 of the NPPF indicates that policies for managing development in LGSs should be *consistent* with those for green belts. Paragraph 146 c) of the NPPF indicates that local transport infrastructure may be "not inappropriate" development in a greenbelt, if it can demonstrate a requirement for a greenbelt location, preserve the openness and does not conflict with the purpose of including land. These considerations appear to be relevant to the current application.

The Planning statement from Clarke Willmott argues that the site should not be a LGS and that the TNP has been too liberal in designating LGSs. This isn't really relevant: it is an LGS in the development plan. The Policy is up to date. They also argue that a Magistrates Court was approved on the site in 1992 (92/0834/R4) but I don't believe this has been implemented, and 1992 was a very long time ago, and predates the LGS designation.

The site is also an Urban Landscape Protection Area under Policy C5 of the adopted Local Plan. This is a lower order of protection than the LGS, but still requires that development does not undermine the value of the ULPA as an open or landscaped feature within the urban area, and makes a positive contribution to the urban environment and enhances the landscape character of the ULPA. It is noted that the Local Plan proposes a railway station at Edginswell as compatible development within the ULPA. The LGS policy carries more weight than the ULPA, although the thrust of the two policies is similar.

I appreciate that the application is for the NHS, and that they may well be able to demonstrate “very special circumstances” particularly during the current Pandemic. This is clearly a material consideration. However to do so they would need to show that alternative sites, including on-campus arrangements and the nearby Broomhill Way Transport Hub (Local Plan policy SS6.8) have been explored and are not suitable.

If these “very special circumstances” have not been demonstrated in accordance with the above, then the development plan points to protection of the site.

**WSP (on behalf of Torbay Council’s Local Highway Authority) – Initial Response (17/07/2020):**

Summary for the Planning Officer

The Highway Authority are not against the principle of the proposed ‘Park and Stride’ car park, however the proposals so far do not provide sufficient detail to be considered acceptable for full planning permission.

Key points have been summarised in the bullet points below, although it is requested the applicant address all issues outlined in the response.

- ✦ It is requested that a supplementary assessment is undertaken that predicts the utilisation of the proposed car park and demonstrates the impact to areas of the local highway network.
- ✦ Vehicle tracking at the entry point and access to the parking aisles is to be provided to demonstrate that the design vehicle can safely manoeuvre through the site.
- ✦ The applicant must demonstrate that adequate forward visibility is achieved around the bend on the proposed vehicle access from Nicholson Road.
- ✦ The proposed car park layout includes a number of dead-end aisles and no provision is made for turning in the event that an aisle is full, this could lead to long reversing lengths.
- ✦ A gradient of 1 in 9 (11%) is proposed across the carpark through sections B-B and C-C, and is 1 in 7.7 (13%) at its maximum across the carpark. These are greater than the permitted maximums and will lead to difficulty in parking and manoeuvring as well as difficulty for users on foot. Earthworks should also be indicated on the plans.
- ✦ There are concerns that the pedestrian crossing facilities at the Riviera Way / Newton Road junction are unsuitable and unsafe for a proposed frequent route used by hospital staff. There are no green-man crossing facilities at two sections of the Riviera Way northern arm and on the Newton Road arm. It is requested that these signals are upgraded to puffin crossings and will be agreed as part of a section 106 agreement.
- ✦ The pedestrian access path appears to run within the root protection zones of several trees within the TPO area. The path will need to be constructed using materials / methods that do not adversely impact the root protection zones of these trees. The

applicant should clarify if there has been a Tree Survey, otherwise it is requested that a survey is undertaken.

✦ The applicant has provided limited details on the operational management and maintenance of the car park. It is requested that the applicant provides a Car Park Management Plan document (either now or by way of condition) that defines the proposed operation.

## **1.0 Description of Proposal**

1.1 A full planning application has been submitted on behalf of Torbay and South Devon NHS Foundation Trust and Belstone Fox Project Management Ltd in support of 'Park and Stride' car park at land adjacent County Court, Nicholson Road, Torquay.

1.2 It is understood the proposed Park & Stride car park will provide off-site car parking for the nearby Torbay Hospital. The Design and Access Statement notes that the Hospital experiences high pressure on its current car parking facilities.

1.3 The Design and Access Statement notes the following key details of the proposed Car Park:

- ✦ Will be used by staff working daytime shifts only;
- ✦ Staff working shift arrival and leaving times will be staggered to mitigate the number of car movements at any one time;
- ✦ Will be controlled by employing latest technology methods such as number plate recognition and access control;
- ✦ Will consist of a total of 250 car parking spaces, including 25 no. electric vehicle charging points (10% of spaces);
- ✦ No accessible parking provision proposed as this requirement will remain at the main Hospital site for accessibility reasons;
- ✦ Vehicular access will be via a shared Private Road with the County Court, via Nicholson Road (public highway).
- ✦ A pedestrian access will be located to the south of the site and link to the existing footways on Riviera Way. Employees will be expected to follow the footways via Riviera Way.

## **2.0 Site Description**

2.1 The site is located off Nicholson Road, adjacent the County Court and The Willows retail park and commercial area. The site is currently undeveloped land.

2.2 Vehicular access to the site is via a shared Private Road with the County Court. This private road is accessed via a priority T-junction with Nicholson Road (public highway).

2.3 It is understood that Torbay Council have an allocated transport hub site adjacent to the proposed site, access off Broomhill Way. It is unclear if the transport hub site was considered for this development proposal.

### **3.0 History**

- 3.1 The site has not been subject to any planning applications in the last 15 years. The Planning Statement states that the site was granted planning consent in 1992 for a Magistrates Court (app ref 92/0834/R4), however this was not built. In 2001, the site was granted planning consent for a temporary car park for three years (app ref 2001/0764/PA), which also was not built.
- 3.2 It is understood that Torbay Council have been held a pre-application meeting with the applicant, whereby the following points were raised:
- ✦ Nicholson Road is already heavily congested with parked cars. Will the demand for this car park exceed capacity or will it be used by a maximum number of permit holders or on a booking system? There is a concern that cars may be 'turned away' which then adds to the problem on Nicholson Road.
  - ✦ The hospital is understood to be entering a short lease – what happens to the car park thereafter, how will it be used and managed once the lease has finished, should the hospital decide not to retain the site.
  - ✦ The purpose of the car park should be clarified. Is it to resolve existing issues caused by the existing hospital, or is it to serve any future plans for redevelopment at the hospital?
  - ✦ Evidence of employees shift patterns should be used to demonstrate the predicted utilisation of the car park and impact at specific times to the junctions of Riviera Way, Browns Bridge Road, and Sainsbury's.
  - ✦ The existing Travel Plan should be considered and areas to reduce car demand reviewed.

### **4.0 Traffic Impact**

#### **Existing Hospital Car Parking**

- 4.1 The Planning Statement states that the existing car parking provision is inadequate to meet staff and visitors' needs and has referenced a strategic review of the hospital car parking that was undertaken in 2015. This states that 200 additional public car parking spaces and 53 disabled spaces were required, some of which have now been delivered. The Torbay Economic Strategy Evidence Base is also referenced which highlighted the issue of on-site and off-site parking around the hospital. To support this, a summary of the car parking needs and plans for Torbay Hospital has been provided by the Director of Estates and Commercial Developments for the NHS.
- 4.2 On the basis of the information provided by the applicant, the local highway authority accepted that there is existing demand for more car parking spaces at the site.

#### **Impact of Proposed Car Park**

- 4.3 The applicant has not undertaken an assessment to demonstrate the impact of the proposed development to the operation of the local highway network.



- 4.4 The Design and Access Statement states that the site will not be a new trip generator and the vehicle trips are already on the network. It also states the proposed development will benefit the streets surrounding the hospital by reducing on-street parking and will have a positive impact on the signalised Lowes Bridge junction.
- 4.5 The applicant has stated that the proposed car park will be for staff only and the working shift arrival and leaving times will be staggered to mitigate the number of car movements at any one time. Evidence of the predicted utilisation of the car park has not been provided, nor has evidence of staff shift times (i.e. expected arrivals and departures at the proposed car park).
- 4.6 It is accepted that some of the vehicle trips to the existing hospital car park and surrounding street will re-distribute to the proposed car park, however, the Highway Authority still have the following concerns:
- ✦ That the new car parking provision will encourage single occupancy car trips.
  - ✦ That the redistributed trips from the on-site car park and on-street areas to the proposed development will intensify traffic on Nicholson Rd, and at the Browns Bridge Road / Nicholson Rd roundabout, and Riviera Way / Browns Bridge Road signal-controlled junction.
  - ✦ That the demand for parking at the proposed car park may exceed the capacity and cars may be 'turned away', adding to the on-street parking issues on Nicholson Road.
- 4.7 It is therefore requested that a supplementary assessment is undertaken that justifies the need of the proposed car park, predicts the utilisation, and demonstrates the impact to areas of the local highway network.

#### **Mitigation of proposed Car Park**

- 4.8 The Design and Access Statement states the car park will be controlled by employing latest technology methods such as number plate recognition and access control, however, the actual payment method (if any) has not been defined. If the car park is free of charge, then this would be an incentive for staff to travel by car. If staff are required to pay, then vehicles may instead park on-street on Nicholson Road and intensify the existing parking issues. It is also requested the applicant explores the option of using TRO to manage parking arrangements in Nicholson Road to control any access or safety issues with parked vehicles as a result of the development and to enable the highway authority to manage parking provision on the remainder of the road.
- 4.9 The applicant should provide more detail of the operation and management of the proposed car park, such as the use of a booking system etc. This request has been further detailed in a section below.

#### **Highway Safety**

- 4.10 A review of Personal Injury Collisions (PICs) on the local highway network has not been undertaken by the applicant. A review undertaken by the Highway

Authority for the most recent five-year period has shown no patterns or trends that are of a concern.

## **5.0 Car Park Design**

### **Highway Layout**

- 5.1 Based on information provided in the Planning Statement and Design and Access Statement, it is understood that the application will not result in any changes to the public highway and that vehicular access to the car park will be via the shared Private Road with the County Court.
- 5.2 It appears that no vehicle tracking has been undertaken. It is requested that vehicle tracking at the entry point and access to the parking aisles is to be provided to demonstrate that the design vehicle can safely manoeuvre though the site.
- 5.3 The plans should demonstrate that adequate forward visibility is achieved around the bend on the proposed vehicle access from Nicholson Road.
- 5.4 The layout includes a number of dead-end aisles and no provision is made for turning in the event that an aisle is full, this could lead to long reversing lengths.
- 5.5 A gradient of 1 in 9 (11%) is proposed across the carpark through sections B-B and C-C, and is 1 in 7.7 (13%) at it maximum across the carpark, these are greater than the permitted maximums and will lead to difficulty in parking and manoeuvring as well as difficulty for users on foot. Earthworks should also be indicated on the plans.

### **Pedestrian Access**

- 5.6 The pedestrian access to the car park is proposed via a footpath that links the south of the site to the existing footway on Riviera Way. Employees will then be expected to follow the footways to the hospital via Riviera Way.
- 5.7 A review of the proposed pedestrian route to the hospital via the footways on Riviera Way has shown the footway provision is adequate, however is not considered an attractive route. There are concerns that the pedestrian crossing facilities at the Riviera Way / Newton Road junction are unsuitable and unsafe for a proposed frequent route used by hospital staff. There are no green-man crossing facilities at two sections of the Riviera Way northern arm and on the Newton Road arm. It is requested that these signals are upgraded to puffin crossings and will be agreed as part of a section 106 agreement.
- 5.8 It is also requested that the route from the car park to the hospital is clearly signed and must be demonstrated on a drawing.
- 5.9 A review of the proposed car park layout (Drawing No 19.10\_P06) has shown that a footway of north-south alignment is provided on the eastern side of the car park, however, no other pedestrian provisions have been provided. It is requested that footways (in the provision of demarcated line and colouring) are located to the front or rear of the spaces in order to provide a safe route.

- 5.10 There is no footway provision on the access from Nicholson Road, the applicant should demonstrate that safe access can be maintained for maintenance of this roadway including for access to proposed gates and barriers.
- 5.11 The pedestrian access path appears to run within the root protection zones of several trees within the TPO area. The path will require to be constructed using materials / methods that do not adversely impact the root protection zones of these trees. The applicant should clarify if there has been a Tree Survey, otherwise it is requested that a survey is undertaken.

### **Car Parking Provision**

- 5.12 The proposed car park layout (Drawing No 19.10\_P06) has shown a total of 250 car parking spaces a proposed, of which 33 are labelled as EV charging. It is noted that the Design and Access Statement states that 25 spaces (10%) will be EV charging. This disparity must be clarified.
- 5.13 It is noted that the car parking spaces will be 2.4m x 4.8m and aisles will be 6m width. This provision is considered suitable.

## **6.0 Operational Management**

- 6.1 The applicant has provided limited details on the operational management and maintenance of the car park. It is requested that the applicant provides a Car Park Management Plan document (either now or by way of condition) that defines the proposed operation. It is noted that the Design and Access Statement states that the car park will be controlled by the latest technology such as ANPR cameras and access control, and that the car park will be closed during the evening.
- 6.2 The management plan should define these details and consider issues such as staff enquired to work extra time/late and unable to move their car before the car park is closed.
- 6.3 The Highway Authority are concerned that the future use of the car park may be uncertain, as it is understood that the hospital is entering into a short-term lease (15 years). The Car Park Management Plan should specify what will happen to the car park thereafter, and how it will be used and managed.

## **7.0 Travel Plan**

- 7.1 The required need for the car park should be incorporated into an updated Travel Plan for the hospital. The updated Travel Plan should identify the existing modal choice of travel to the hospital and compare this to the existing modal choice targets. The Travel Plan should identify areas where it has failed and consequently should provide measures and incentives to reduce single occupancy car trips.
- 7.2 In addition to the provision of the proposed new park and stride car park, it is requested that the cycle parking provision at the hospital is reviewed and suitable improvements should be implemented.

## **8.0 Other**

- 8.1 The applicant has not provided details for the management of construction traffic. Due to the location of the car park adjacent to the County Court, a Construction Traffic Management Plan (CTMP) is requested to be produced at this stage of planning, or a later stage by way of condition. The CTMP will to ensure the construction doesn't affect the access to the surrounding businesses and sets out the routes to the site.

## **9.0 Conclusion**

- 9.1 Overall, the Highway Authority are not against the principle of the proposed 'Park and Stride' car park, however the proposals so far do not provide sufficient detail to be considered acceptable for full planning permission.
- 9.2 Further information, as set out above, should be provided that demonstrates the predicted impact on the local highway network, and the operation/management of the facility to ensure it is used appropriately. Issues with the design of the car park should be reviewed, and areas to mitigate the impact should be considered alongside the requested improvements to the pedestrian route in order to make it safe and suitable for an increased use.
- 9.3 Once the requested information has been provided and is considered satisfactory, then a set of planning conditions will be provided.

## **WSP (on behalf of Torbay Council's Local Highway Authority) – Follow-up Response (25/08/2020):**

### **1.0 Background**

- 1.1 A full planning application has been submitted on behalf of Torbay and South Devon NHS Foundation Trust and Belstone Fox Project Management Ltd in support of 'Park and Stride' car park at land adjacent County Court, Nicholson Road, Torquay. It is understood the proposed Park & Stride car park will provide off-site car parking for the nearby Torbay Hospital.
- 1.2 A previous Highway Authority response was issued by Torbay Council on the 27<sup>th</sup> July. This response emphasizes that the Highway Authority are not against the principle of the proposed 'Park and Stride' car park, however the proposals so far do not provide sufficient detail to be considered acceptable for full planning permission.
- 1.3 The applicant has since submitted an email (dated 11<sup>th</sup> August 2020) to the Planning Officer which has attempted to provide evidence that elements of additional work outlined in the original Highway Authority response is unnecessary. The comments by the applicant have been addressed in items 1-7 below.

### **Item 1**

#### **Original Highway Authority comment**

It is requested that a supplementary assessment is undertaken that predicts the utilisation of the proposed car park and demonstrates the impact to areas of the local highway network.

#### Applicant's comment

The Car park is for the use of Hospital staff. As the car park contains 250 spaces, a maximum of 250 vehicles will be able to use the car park. The Council (in its capacity as Highway Authority) has acknowledged that these vehicles are already on the highway network.

The car park is not a trip generator in itself. People are not driving for the purposes of visiting the car park. They were driving to access the hospital and would have parked somewhere on the local highway network. Therefore, the proposal provides the opportunity to appropriately manage a currently unmet car parking need for hospital staff.

#### New Highway Authority comment

The car park is considered a trip generator because vehicles that currently park on the local roads will redistribute/re-route to the proposed car park. The increase of up to 250 vehicles arriving/departing per shift will have an impact to the operation of Nicholson Road, Browns Bridge Road and their associated junctions. The applicant needs to demonstrate that this impact will not be severe in terms of the NPPF (paragraph 102(a)).

The car park is likely to encourage single occupancy car use and may persuade staff from using active travel and public transport. This would be against the principles of the sustainable transport hierarchy set out in the Torbay Local Plan Policy TA2.

## **Item 2**

#### Original Highway Authority comment

Vehicle tracking at the entry point and access to the parking aisles is to be provided to demonstrate that the design vehicle can safely manoeuvre through the site.

#### Applicant's comment

This is a private car park for normal domestic type cars, it will not be used for larger commercial vehicle parking. The current layout complies with Highway Authority Standing Advice in terms of layout access and turning requirements and complies with Health & Safety requirements.

The car park will be used by hospital staff only pursuant to a permit arrangement. The car park will be controlled by a management regime thereby avoiding the random and unplanned movement which can be experienced in a public car park.

In light of the above, and given that the internal car movements will have no impact on the highway network, there is no need to provide the requested vehicle tracking information.

#### New Highway Authority comment

It is acknowledged that the bay sizes and aisle widths are consistent with the standing advice and these elements are acceptable. The applicant needs to demonstrate for example that a large car can enter the carpark and access the first aisle on the left-hand side without impacting the adjacent parking bays.

Demonstrating the manoeuvrability of vehicles within the carpark is part of ensuring that the overall layout is safe and suitable.

### **Item 3**

#### Original Highway Authority comment

The applicant must demonstrate that adequate forward visibility is achieved around the bend on the proposed vehicle access from Nicholson Road.

#### Applicant's comment

The access to the car park is an existing access. The access was found to be acceptable in planning terms when planning permission was granted for the development of a Court on this site. Further, the access was also found to be safe and suitable when temporary permission was granted for a car park.

The access is not being changed. Therefore, no further information should be required.

#### New Highway Authority comment

The proposed development will significantly intensify the use of the junction. In order to demonstrate that the use is safe and suitable, visibility splays must be demonstrated.

The NPPF section 'Considering Development Proposals' notes the need for safe and suitable access to the site can be achieved for all users. At the moment, this has not been demonstrated.

### **Item 4**

#### Original Highway Authority comment

The proposed car park layout includes a number of dead-end aisles and no provision is made for turning in the event that an aisle is full, this could lead to long reversing lengths.

#### Applicant's comment

As noted above, this is a private car park. Any reversing which may take place within the car park will have no impact on the local highway network. Therefore, there is no planning or highways related reason to require this information.

New Highway Authority comment

Despite the proposed private use of the car park, safe use must still be achievable and demonstrated to the Local Highway Authority.

**Item 5**

Original Highway Authority comment

A gradient of 1 in 9 (11%) is proposed across the carpark through sections B-B and C-C, and is 1 in 7.7 (13%) at its maximum across the carpark. These are greater than the permitted maximums and will lead to difficulty in parking and manoeuvring as well as difficulty for users on foot. Earthworks should also be indicated on the plans.

Applicant's comment

We note the above comments. However, it is essential that the site is used as efficiently as possible to ensure that the unmet parking requirements of the hospital can be met. The general configuration of the car park and its topography have been agreed with Torbay NHS Trust and are acceptable to them.

Further, this is a private car park. Therefore, the gradients will not affect the local highway network.

New Highway Authority comment

Again, despite the car park being for private use, if users feel it is unsafe then they may resort to using local streets which will have an impact to the operation of the local highway network.

**Item 6**

Original Highway Authority comment

There are concerns that the pedestrian crossing facilities at the Riviera Way / Newton Road junction are unsuitable and unsafe for a proposed frequent route used by hospital staff. There are no green-man crossing facilities at two sections of the Riviera Way northern arm and on the Newton Road arm. It is requested that these signals are upgraded to puffin crossings and will be agreed as part of a section 106 agreement.

Applicant's comment

This matter was briefly discussed with the Highway and other Officers at the pre-app meeting and it was our view that any upgrade was unnecessary as this car park would have no detrimental impact on the existing safe controlled crossing arrangement.

There is an existing safe pedestrian route including a timed pedestrian crossing on Hele Road. This route is the same length as the route identified by the above comment. There is no reason why car park users would seek out the just-as-long unsafe route when a safe alternative is available. Further, we propose the erection of signage to ensure that car park users are signed to the safe route. The signage can be secured by condition.

For information, the two routes are shown below. The safe route is shown with yellow arrows whereas the route identified by WSP is shown in red.

#### New Highway Authority comment

The applicant's yellow route does not fall on the pedestrian desire line for movements between the hospital and the proposed park and stride. The yellow route shows a total of 5 separate signal crossings, whereas the proposed improved route would involve 4 crossings and in reality, 3 crossings as the final crossing at the hospital access shown on the applicants sketch above is unlikely to be needed.

To encourage the use of the proposed Park and Ride Site, convenient and safe pedestrian crossing facilities are required, otherwise cars will return to the streets surrounding the hospital and the objective of the Park and Stride will not be met.

### **Item 7**

#### Original Highway Authority comment

The applicant has provided limited details on the operational management and maintenance of the car park. It is requested that the applicant provides a Car Park Management Plan document (either now or by way of condition) that defines the proposed operation.

#### Applicant's comment

We propose a condition in the following terms:

*"The car park hereby permitted shall not be brought into use unless and until a Car Park Management Scheme has been submitted to and approved by the Local Planning Authority. The car park shall thereafter be managed in accordance with the approved Car Park Management Scheme together with any revisions thereto that may be agreed in writing with the Local Planning Authority"*

The Car Park Management Scheme will secure management of the car park in accordance with the hospital's existing TP regime together with the other management measures set out above.

#### New Highway Authority comment

The inclusion of a CPMP by way of condition is considered acceptable, however demonstrating that there is a workable safe solution must be prioritised.



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

1. The proposed discharge rate from the development to the surface water sewer system in Nicholson Road is now 2.3l/sec which complies with the requirement of the Torbay Critical Drainage Area.
2. Details of the preliminary surface water drainage strategy are shown on drawing number 205512\_PDL\_01. The cover level for the attenuation tank is identified as 52.8m and the invert level is identified as 55.0m on this drawing. Clearly this is incorrect and does not agree with the cover level and invert level included within the hydraulic modelling. Please amend the drawing accordingly.
3. The preliminary surface water drainage strategy drawing identifies that the majority of the car park will be drained using surface channel drains. These channel drains are in some cases nearly 100m in length and draining large surface areas, however no details of these channel drains and their hydraulic capacities have been supplied. The developer must demonstrate that the channel drainage has been designed to cater for the critical 1 in 100 year storm event plus 40% for climate change.
4. There are no details within the preliminary surface water drainage strategy of how the surface channel drains will discharge into the underground drainage system. The developer must supply these details together with hydraulic calculations to demonstrate that these connections have been designed to allow the flows from the critical 1 in 100 year storm event plus 40% for climate change to enter the underground drainage system.
5. The submitted hydraulic modelling, although including the total impermeable area for the development, has only been carried out for the small underground surface water drainage system, totally ignoring the surface channel drainage. The developer has assumed that the impermeable areas discharging to the channel drainage will actually discharge directly to the underground surface water drainage system which is incorrect. The developer must include all of the surface water drainage within his hydraulic model in order to demonstrate that the proposed surface water drainage has been designed in order that there is no increased risk of flooding to properties or land adjacent to the site for the critical 1 in 100 year storm event plus 40% for climate change.

Based on the above comments, before planning permission can be granted the applicant must supply details to address the points identified above.

### **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. Impact on Ecology and Trees
6. Impact on Flood Risk and Drainage
7. Designing Out Crime

## **Planning Officer Assessment**

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

The proposal is for the construction of a 250 space car park, to provide a 'Park and Stride' facility for the Torbay and South Devon NHS Foundation Trust. The proposed car park will provide a "Park and Stride" facility for employees of Torbay Hospital. The Hospital has historically struggled with parking capacity issues. The Trust has secured capital funding from the Government under the HIP 2 initiative, which may result in substantial reconfiguration of the Hospital site as there is consideration to rebuild the hospital. The current COVID-19 pandemic is also stated to be further justification for this proposal.

The site is a designated Local Green Space (LGS) under Policy TE2 of the Neighbourhood Plan. Policy TE2 states that development is ruled out other than in very special circumstances. The Policy goes on to outline very special circumstances, however it is considered that the proposal would fall outside of those specified. It should be noted that the Torquay Neighbourhood Forum have not responded to the consultation request for this planning application. Paragraph 101 of the NPPF states that "policies for managing development within a Local Green Space should be consistent with those for Green Belts". Paragraph 146 c) of the NPPF indicates that local transport infrastructure may be "not inappropriate" development in a greenbelt, if it can demonstrate a requirement for a greenbelt location, preserve the openness and do not conflict with the purpose of including land as an LGS. It is considered that these considerations appear to be relevant to this proposal.

The supporting Planning Statement provided by Clarke Willmott argues that the site should not be a LGS and that the Neighbourhood Plan has been too liberal in designating LGSs, however this is not considered relevant to the proposed development, as it is designated as a LGS in the Neighbourhood Plan. Policy TE2 of the Neighbourhood Plan is up-to-date. The letter of support also motions that the site should not have such designations.

The Planning Statement states that planning reference P/1992/0834 for the erection of New Magistrates Courts Buildings was never built out, but "implemented through the construction of the existing access on the application site" and as such the land

could still lawfully be developed. Officers are of the view that the scheme has not been implemented. The onus is on the applicant to demonstrate that this permission was implemented, a certificate of lawfulness for existing use has not been submitted to demonstrate such, and therefore little weight is given to this assertion. It should also be noted that the 1992 permission predates the LGS designation. The site is also designated as an Urban Landscape Protection Area (ULPA) under Policy C5 of the Local Plan. This designation is a lower order of protection than the LGS, but still requires significant consideration, this will be assessed within the next section of the committee report. Policy TE2 of the Neighbourhood Plan carries more weight than Policy C5 of the Local Plan, although the thrust of the two policies is similar.

This application is submitted on behalf of the Torbay and South Devon NHS Foundation Trust, given the current COVID-19 pandemic, it is considered that the applicant might have been able to demonstrate “very special circumstances” in this instance, given that the pandemic is a material consideration. The letter of support also states that the proposal would assist with the delivery of healthcare services. However, in demonstrating such matters, the applicant would need to explore alternative sites, including on campus arrangements and the nearby Broomhill Way Transport Hub (as defined by Policy SS6.8 of the Local Plan), and provide an explanation as to why such sites are not suitable. Therefore, it is considered that the “very special circumstances” have not been demonstrated, and therefore the Development Plan points to the protection of the site.

Therefore, the principle of development for this proposal is considered to be contrary to Policy TE2 of the Neighbourhood Plan, Policy C5 of the Local Plan and paragraph 146 c) of the NPPF.

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

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

The site is located north of Riviera Way and site vegetation clearance works have been undertaken, including the unauthorised felling of a number of protected trees which have opened up views into the site. The letter of support received states that the proposed development would assist with enhancing the site's appearance. The proposed development would show a typical impermeable bitumen macadam surface with parking spaces delineated by permanent thermoplastic white lines. There is also

the inclusion of a perimeter security fence, which will stand at approximately 2.4 metres high, which will be plastic powder coated galvanised steel mesh with posts, fittings and gates to match. The proposed development seeks operation for daytime shifts only, therefore there will also be a myriad of colour within the car park due to the parked vehicles. From site observations, it is evident that the site will be visible from breaks in the vegetation and existing tree line. Due to the nature of the proposal and the topography of the site, it will have varying degrees of visibility depending on which public vantage points it is viewed from.

The site is also located within an area designated as an ULPA as defined by Policy C5 of the Local Plan. Policy C5 specifies that development within an ULPA will only be permitted where:

1. It does not undermine the value of the ULPA as an open or landscaped feature within the urban area; and
2. It makes a positive contribution to the urban environment and enhances the landscape character of the ULPA.

In terms of landscape impact it is relevant to consider the visibility of the site from Riviera Way and other public vantage points. The applicant was asked to provide a Landscape and Visual Impact Assessment at the validation stage of the application, but contested such matters stating that this had already been provided. A review of the details submitted find them not fit for purpose and as such unsatisfactory. It is considered that it has not been demonstrated that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the ULPA and that it is likely that the development would undermine the value of the ULPA as an open or landscaped feature within the urban area and unlikely that it would make a positive contribution to the urban environment and enhance the landscape character of the ULPA. As such it has not been demonstrated that the application would accord with Policy C5 of the Local Plan nor paragraphs 127(c) and 130 of the NPPF.

Given the proposal's siting, scale, and design, it is considered that the proposed development would result in unacceptable harm to the character or visual amenities of the locality.

It is considered that the proposed development in terms of visual amenity and impact on the LGS and ULPA is unacceptable and therefore fails to accord with Policies DE1 and C5 of the Local Plan, Policies TH8 and TE2 of the Neighbourhood Plan and paragraphs 127(c) and 130 of the NPPF.

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

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. The Neighbourhood Plan is largely silent on

the matter of amenity. The NPPF guides (paragraph 127) that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

The site is located in close proximity to a commercial area. Torbay Council's Senior Environmental Health Officer raises no objections to the proposal. Given its siting, scale, and design of the proposals, it is considered that the proposals would not result in any unacceptable harm to the amenities of neighbours.

The site is located on contaminated land and the application is supported by a Geotechnical and Geo-environmental assessment. The report states that having undertaken an assessment of early maps, the site has been "essential undeveloped". The report states that the main source of contamination is the landfill present immediately east of the site from the 1970s to the 1980s, along with the fill wedge present in the south west corner. Gasses including methane and carbon dioxide are considered a risk to the site from the landfill, as well as general brownfield contaminants including hydrocarbons, heavy metals and asbestos from made ground. The survey found no elevated concentrations of any contaminants were recorded on site and so the site is considered suitable for the proposed use and no further work is required in this regard. The adjacent landfill is a known source of gasses, however the gasses are not considered a risk to the proposed development. The report concludes with a number of measures that should be observed by an earthworks contractor. Should planning permission be granted, a planning condition should be employed to secure such measures.

The proposal is considered to accord with Policy DE3 of the Local Plan.

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

Policy TA1 of the Local Plan 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. The Neighbourhood Plan falls silent on parking matters for commercial use.

Paragraph 108 of the NPPF guides that when assessing developments it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be (or have been) taken up, given the type of development and its location; (b) safe and suitable access to the site can be achieved for all users; and (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. Paragraph 109 of the NPPF confirms that development should only be

prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The site is located off Nicholson Road, adjacent to Torquay and Newton Abbot County Court and The Willows Retail Park. The vehicular access to the site is via a shared private road with the Court. This private road is accessed via a priority T-junction with Nicholson Road (public highway). The proposed development is for a "Park and Stride" 250 space car park for Torbay Hospital. The submitted Design and Access Statement states that the proposal will be used by staff working daytime shifts only; of the 250 spaces, 25 will have electric vehicle charging points; the car park will be controlled by number plate recognition and access control; there will be no accessible parking provision on site as this requirement will remain at the main hospital for accessibility reasons; a pedestrian access will be located to the south of the site and link to the existing footways on Riviera Way; and staff working shifts will have arrival and leaving times staggered to mitigate the number of car movements at any one time.

The previous planning history relating to the site (planning references P/1992/0834 and P/2001/0764) were never built out. It is known and can be observed that Nicholson Road is heavily congested with parked vehicles. The Local Plan under Policy SS6 supports the development of transport hubs in sustainable locations with good links to existing and planned residential areas, town centres and other retail centres, healthcare facilities and radial or orbital routes to increase accessibility and names Broomhill Way, Torquay as one of those. The proposed transport hub is denoted on the Local Plan Interactive Map as being sited north-west of Royal Mail, within 100 metres of the site. Given the designations on site, the applicant is required to show alternative sites, including on-campus arrangements and the nearby Broomhill Way Transport Hub have been explored and are not suitable. It is unclear whether the designated transport hub was considered for the proposed development.

The submitted information states that the existing car parking provision is inadequate to meet staff and visitor needs on-site at Torbay Hospital. A strategic review of the hospital parking was undertaken in 2015, stating the need for an additional 200 car parking spaces and 53 disabled car parking spaces, of which some have now been delivered. The Torbay Economic Strategy Evidence Base highlights the issue of on-site and off-site parking around the hospital. The Local Highway Authority accepts that there is an existing demand for more car parking spaces at the site.

WSP has been appointed on behalf of the Local Authority to provide highway comments with regards to the proposed development. WSP have stated that the applicant has not undertaken an assessment to demonstrate the impact of the proposed development to the operation of the local highway network. The applicant has stated that they consider the proposal not a trip generator in itself. WSP have disagreed stating that the proposed car park is considered a trip generator as vehicles

that may currently park on the local highway network will be redistributed/rerouted to the proposed development. The increase of up to 250 vehicles would have an impact to the operation of Nicholson Road, Browns Bridge Road and their associated junctions. Paragraph 102 of the NPPF states that transport issues should be considered from the earliest stages of plan-making and development proposals, so that the potential impacts of the development on transport networks can be addressed. WSP go on to state that the proposal is likely to encourage single occupancy car use and may persuade staff from using active travel and public transport. This would be against the principles of the sustainable transport hierarchy as set out in Policy TA2 of the Local Plan.

WSP have assessed the proposed site layout and have requested that a vehicle tracking plan is submitted to support the proposal, to demonstrate that at the entry point and access to the parking aisles a vehicle can safely manoeuvre through the site. WSP consider that the bay sizes and aisle widths are consistent with the standing advice and are therefore acceptable. The applicant has failed to provide a vehicle tracking plan. Therefore, insufficient information has been provided to demonstrate that a large car can enter the carpark and access the first aisle on the left-hand side without impacting on the adjacent parking bays. Moreover, demonstrating the manoeuvrability of vehicles within the car park is part of ensuring that the overall layout is safe and suitable. WSP have also requested that visibility is demonstrated to seek whether adequate forward visibility is achieved around the bend on the proposed vehicular access from Nicholson Road. The applicant has also failed to provide this information. Therefore, insufficient information has been provided to demonstrate that a safe and suitable access to the site can be achieved for all users, as the proposed development will significantly intensify the use of the junction.

WSP have also noted that the proposed site layout includes a number of dead-end aisles and no provision is given for turning in the event that an aisle is full, which could result in long reversing lengths. The applicant has stated that as the car park is private, it is not a planning or highways matter. WSP have stated that a safe use must be achievable and demonstrated to the Local Highway Authority. The gradient of the proposed car park is 1 in 9 (11%) and 1 in 7.7 (13%) at its maximum. It is considered that the gradients will result in difficulty in parking and manoeuvring as well as for the users on foot. The applicant considers this to be a private matter for the Trust. It is considered that regardless of public or private use, if users feel unsafe then they may resort to using local streets which would also have an impact on the operation of the local highway network.

The pedestrian crossing facilities at Riviera Way/Newton Road are considered to be unsuitable and unsafe for the proposed frequent route to be used by the staff of Torbay Hospital. There are no green-man crossing facilities at the two sections of the Riviera Way northern arm and on the Newton Road arm. WSP have requested that these signals are upgraded to puffin crossings and can be agreed as part of a S106

agreement. The applicant considers that the existing pedestrian routes are sufficient, however it is considered that the pedestrian desire line for movements between the hospital and the proposed development would differ. It is imperative to have convenient and safe pedestrian crossing facilities, otherwise it may lead to parking on the local highway network on surrounding streets close to the hospital. WSP have also requested a Car Park Management Plan, to secure details on the operational management and maintenance of the car park, however should planning permission be granted, a planning condition can be employed prior to first use to secure such details.

Overall, the Local Highway Authority are not against the principle of the proposed development, however insufficient information has been provided to consider the proposal acceptable. Given the insufficient information, it is not possible for the Local Authority to assess the impact of the proposed development to the operation of the local highway network; whether the proposed development would achieve appropriate on-site manoeuvrability; and whether the proposed development would achieve adequate forward visibility to provide a safe and suitable access to the site can be achieved for all users. The proposed development is considered to provide a harsh gradient for both vehicles and users and does not seek to upgrade crossings to enable users to follow the pedestrian desire line, which could result in users parking on the nearby local highway unit instead of using the proposed car park. Therefore, the proposal is contrary to Policies TA1 and TA2 of the Local Plan, and Paragraph 108 of the NPPF.

## **5. Impact on Ecology and Trees**

Policy NC1 of the Local Plan seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance. Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Guidance within the NPPF (paragraph 170) provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity.

The proposal is supported by a Preliminary Ecological Appraisal which is dated December 2019. The report details the survey results of protected species. It states that there are several bat records within 1km of the site and the site is approximately 950 metres east from the Greater Horseshoe Bat Strategic Flyway. The site contains suitable commuting and foraging habitat for bats in the form of the woodland strips and the hedgerows surrounding the site. The report recommends that a bat activity survey be undertaken to assess the value of the site and potential impacts on bats. It is also suggested that for sites with moderate suitability for bats that one survey visit



per month (April-October) be undertaken in combination with a static bat activity survey. In terms of mitigation, the report suggests that a sensitive lighting plan be developed. As for ecological enhancement, the report recommends that five Woodcrete (or similar durable material) bat boxes be provided in the retained trees around the site boundaries, to provide roosting opportunities for bats.

Furthermore, prior to the clearance of the site, the site may have provided suitable habitat for dormice and it is likely that the retained scrub and woodland surrounding the site could still support dormice. The report recommends that 10 dormouse nest boxes are to be installed in the retaining woodland at the south of the site. The retained woodland, hedgerows and scrub are likely to support nesting birds. The report recommends that should any scrub or trees be removed, a check should be made for any nesting birds prior to any tree or scrub removal (if undertaken between April and September). If nesting birds are present, works must wait until the birds have fledged. In terms of ecological enhancement, the report recommends that 10 bird boxes suitable for hole-nesting birds be provided in the retained woodland.

There is also several records of slow worms within 1km of the site, given the extent of the vegetation clearance and ground disturbance, the Ecologist was unable to determine how favourable the site was for reptiles, but states that the present form is unsuitable for reptiles. The report states that should the site not be developed within 12 months of the initial survey, an updated walkover survey should be undertaken to ascertain whether the site has become suitable for reptiles. The site is within a Devon County Council Great Crested Newt Consultation Zone. There is a pond approximately 50 metres east of the site which may support great crested newts and there is suitable terrestrial habitat for the species on site. The woodland and hedgerow understory could enable the newts to commute across the site and forage and shelter within them, if present. The report states that Devon County Council's guidance states that any ponds within 500 metres with habitat connectivity should be surveyed. Initially, a habitat suitability assessment (HAS) should be undertaken of the pond to generate a habitat suitability index score (HSI). If the HSI score was over 0.6, further survey, such as an environmental DNA (eDNA) survey, torch survey or bottle trapping would be required. If the HSI score is below 0.6, no further GCN survey would be required. The HSA can be undertaken at any time. However, further surveys are seasonally constrained and can only be undertaken between mid-March and mid-June. These further surveys have not been undertaken.

The report is caveated that should development be delayed beyond 12 months, habitats are likely to regenerate. The application is also supported by a Landscape and Ecology Management Plan (LEMP) dated January 2020 and a Lighting Design Statement dated June 2020. Given the insufficient survey work having not been undertaken, it is not possible for the Local Authority to assess the impact and/or appropriate mitigation of protected species. Therefore, the proposal is contrary to

Policy NC1 of the Local Plan, Policy TE5 of the Neighbourhood Plan and the guidance contained within the NPPF.

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

The existing site has been recently been extensively cleared, including the unauthorised felling of a number of protected trees which have opened up views into the site. An area of mature woodland has the benefit of a Tree Protection Order (2016.006) and this lies along the southern boundary of the privately owned plot between the Riviera Way highway and the application site. The proposal seeks to provide a landscaping scheme to complement the proposed development, this includes tree, woodland, hedge planting, along with proposed grass areas and tussock wet grass areas. Torbay Council's Senior Tree and Landscape Officer has been consulted on the proposal and has stated that the betterment of the periphery is welcomed as is the bolstering of the Riviera Way woodland edge to mitigate the previously removed trees. The car park also includes a number of trees within the car parking layout. The proposed loss of vegetation along the southern boundary to form the access path and gate way is mitigated through the proposed landscaping scheme. The Officer is satisfied with the proposed landscaping, subject to a pre-commencement condition to ascertain details of a tree protection plan.

The proposal is considered to accord with Policy C4 of the Local Plan, and the guidance contained within the NPPF.

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

Policy ER1 Flood Risk of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere.

The site sits in an area with a low risk (Flood Zone 1) of flooding, however it does sit within a Critical Drainage Area as designated by the Environment Agency. A Flood Risk Assessment has been submitted to accompany the application and states that the scheme proposes to discharge the surface water runoff into the surface water sewer system on Nicholson Road. Torbay Council's Drainage Engineer has been consulted on the scheme. The Engineer has stated that the proposed discharge rate from the development to the surface water sewer system in Nicholson Road is 2.3l/sec, which complies with the requirement of the Torbay Critical Drainage Area.

As this proposal is of a minor nature, the adopted drainage standing advice would apply and should planning permission be granted, a planning condition can be employed to secure details of the surface water drainage strategy.

## **7. 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 TH2 of the Neighbourhood Plan states that new development should provide for a safe environment and consider opportunities to prevent crime or the fear of crime from undermining quality of life or community cohesion.

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. Should planning permission be granted, a planning condition should be employed to secure a scheme of crime prevention measures. The proposal is considered to accord with Policy SS11 of the Local Plan, and TH2 of the Neighbourhood Plan.

## **Sustainability**

Policy SS3 of the Local Plan establishes the presumption in favour of sustainable development. The proposed development is considered not to be in a sustainable location as it cause unacceptable harm to the Local Green Space and Urban Landscape Protection Area, insomuch that granting planning permission would have a significant and demonstrable adverse impact that is not outweighed by the benefits, when assessed against the policies in the NPPF taken as a whole.

## **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 Financial Contributions**

#### **S106:**

Not applicable.

#### **CIL:**

The CIL liability for this development is Nil.

### **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:**

There is no requirement for a HRA in this instance.

### **Planning Balance**

The proposal is considered to represent an inappropriate form of development which would cause unacceptable harm to the Local Green Space, Urban Landscape Protection Area, protected species and highway network. These issues are addressed in the main body of the report and are considered to be so significant as to warrant a refusal of planning permission. Exceptional circumstances to outweigh the harm that would arise from this development have not been demonstrated.

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

The proposal is considered to be unacceptable in principle and fails to provide sufficient information to demonstrate to the Local Planning Authority that the proposal would not have adverse impacts on the designated Urban Landscape Protection Area, the Local Green Space, biodiversity and the local highway network. The proposed development is considered unacceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is refused, as per the reasons stated below. The final drafting of these reasons, 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(s) for Refusal**

1. It has not been demonstrated that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the character and function of the Local Green Space and it has not been demonstrated that there are exceptional circumstances to justify the

development of this space. As such the proposed development is contrary to Policy TE2 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the National Planning Policy Framework, in particular paragraph 146 c).

2. It has not been demonstrated that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the Urban Landscape Protection Area, contrary to Policies DE1 and C5 of the Adopted Torbay Local Plan 2012-2030, Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the National Planning Policy Framework, in particular paragraph 170.
3. The application has failed to provide sufficient detail to allow the Local Authority to assess the impact of the proposed development on the operation of the local highway network; whether the proposed development would achieve appropriate on-site manoeuvrability; and whether the proposed development would achieve adequate forward visibility to provide a safe and suitable access from the site onto Nicholson Road. It is considered that the proposed development would result in an inappropriate, inconvenient development given the proposed gradient and inadequate pedestrian crossings, therefore exacerbating existing parking issues in the area resulting in a poor and inadequate form of development, with a resulting harmful effect on highway safety. The proposed development is contrary to Policies TA1 and TA2 of the Local Plan, and the NPPF, in particular paragraph 170.
4. It has not been demonstrated that it is possible to develop the site for the type of development as set out in the proposal, due to the supporting ecological evidence indicating that there is a potential presence of protected species bat and great crested newts. Insufficient survey work has been undertaken to clearly identify the presence of such species and as such it is not possible to assess the impact and/or appropriate mitigation. No exceptional circumstances have been justified to provide an understanding as to why these further surveys have not been undertaken. The proposed development is contrary to Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Adopted Torquay Neighbourhood Plan 2012-2030 and the National Planning Policy Framework, in particular paragraph 170.

### **Informative(s)**

01. In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way, however, it is considered that the concerns raised cannot be overcome in this case.

### **Relevant Development Plan Policies**

#### **Torbay Local Plan Policies**

C4 – Trees, Hedgerows and Natural Landscape Features  
C5 – Urban Landscape Protection Areas  
DE1 – Design  
DE3 – Development Amenity  
ER1 – Flood Risk  
NC1 – Biodiversity and Geodiversity  
SS3 – Presumption in Favour of Sustainable Development  
SS6 – Strategic Transport Improvements  
SS11 – Sustainable Communities  
TA1 – Transport and Accessibility  
TA2 – Development Access  
TA3 – Parking Requirements

### **Torquay Neighbourhood Plan Policies**

TE2 – Local Green Spaces  
TE5 – Protected Species, Habitats and Biodiversity  
TH2 – Designing Out Crime  
TH8 – Established Architecture