

Friday, 4 June 2021

## **PLANNING COMMITTEE**

A meeting of **Planning Committee** will be held on **Monday, 14 June 2021** commencing at **5.30 pm**

The meeting will be held in the Town Hall for decision makers all other interested parties are encouraged to attend remotely via Zoom (the links to the meeting are set out below)

Join Zoom Meeting

<https://us02web.zoom.us/j/87329698655?pwd=ZURQTlc5dkJDQXM3TUICOEVvay92UT09>

Meeting ID: 873 2969 8655

Passcode: 439132

One tap mobile

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Where a person would like to attend in person, it is requested that they notify our Governance Support Team on 207087 or [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk), so that arrangements can be made to ensure meetings are held safely, in accordance with Covid secure guidelines.

### **Members of the Committee**

Councillor Pentney (Chairman)

Councillor Brown

Councillor Kennedy

Councillor Dart

Councillor Barbara Lewis

Councillor Dudley

Councillor Mills

Councillor Hill

Councillor Jacqueline Thomas

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## **Together Torbay will thrive**

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**Amanda Coote, Town Hall, Castle Circus, Torquay, TQ1 3DR**

Email: [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) - [www.torbay.gov.uk](http://www.torbay.gov.uk)

# PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

To receive apologies for absence, including notifications of any changes to the membership of the Committee.

2. **Minutes**

(Pages 5 - 36)

To confirm as a correct record the Minutes of the meetings of the Planning Committee held on 18 May, 8 June, 13 July, 10 August, 14 September, 12 October, 9 November, 14 December 2020, 11 January, 8 February, 8 March, 12 April and 24 May 2021.

(Note the Minutes had not previously been signed due to Covid19 and holding the meetings remotely.)

3. **Disclosure of Interests**

(a) To receive declarations of non pecuniary interests in respect of items on this agenda.

**For reference:** Having declared their non pecuniary interest members may remain in the meeting and speak and, vote on the matter in question. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

(b) To receive declarations of disclosable pecuniary interests in respect of items on this agenda.

**For reference:** Where a Member has a disclosable pecuniary interest he/she must leave the meeting during consideration of the item. However, the Member may remain in the meeting to make representations, answer questions or give evidence if the public have a right to do so, but having done so the Member must then immediately leave the meeting, may not vote and must not improperly seek to influence the outcome of the matter. A completed disclosure of interests form should be returned to the Clerk before the conclusion of the meeting.

**(Please Note:** If Members and Officers wish to seek advice on any potential interests they may have, they should contact Governance Support or Legal Services prior to the meeting.)

4. **Urgent Items**

To consider any other items that the Chairman decides are urgent.

5. **Dawn, Brim Hill, Torquay, TQ1 4TR P/2020/1044**

(Pages 37 - 56)

Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration (part retrospective).

6. **Ashfield Gables, Ashfield Road, Torquay, TQ2 6HE P/2021/0460**

(Pages 57 - 63)

Installation of a window and a door.

7. **Cherry Trees, 142 Newton Road, Torquay, TQ2 7AD P/2020/0866** (Pages 64 - 79)  
Alterations and extensions to existing dwelling to form five residential flats. Alterations include the formation of a two storey side extension over existing garage, the enlargement of a rear dormer (revised plans received on 14.04.2021)
8. **Mayfield School, Moor Lane, Torquay, TQ2 8NH P/2021/0357** (Pages 80 - 100)  
Formation of new staff & teaching block.
9. **Public speaking**  
If you wish to speak on any applications shown on this agenda, please contact Governance Support on 207087 or email [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk) before 11 am on the day of the meeting.
10. **Site visits**  
If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 9 June 2021. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

#### **Instructions for the press and public for joining the meeting**

To meet Covid-19 secure arrangements this meeting will be held via a hybrid system with the actual decision makers e.g. members of the Cabinet and key officers meeting in person, at the Town Hall, Torquay. All other people which includes persons who have registered to speak, are encouraged to attend remotely via Zoom.

People will not be prohibited from attending meetings in person but where that number exceeds our maximum Covid-19 secure numbers, the meeting will be adjourned to enable the meeting to continue safely in an alternative location.

Where persons would like to attend meetings in person, it is requested that they notify our Governance Support Team on (01803) 207087, so that arrangements can be made to ensure meetings are held, in accordance with Covid secure guidelines.

If you are joining remotely, via an iPad you will need to install Zoom which can be found in the App Store. You do not need to register for an account just install the software. You only need to install the software once. For other devices you should just be taken direct to the meeting.

#### **Joining a Meeting Remotely via Zoom**

Click on the link provided on the agenda above and follow the instructions on screen. If you are using a telephone, dial the Zoom number provided above and follow the instructions. **(Note:** if you are using a landline the call will cost up to 13p per minute and from a mobile between 3p and 55p if the number is not covered by your inclusive minutes.)

You will be placed in a waiting room, when the meeting starts the meeting Host will admit you. Please note if there are technical issues this might not be at the start time given on the agenda.

Upon entry you will be muted and your video switched off so that only the meeting participants can be seen. When you join the meeting the Host will unmute your microphone, ask you to confirm your name and update your name as either public or press. Select gallery view if you want see all the participants.

If you have joined the meeting via telephone, your telephone number will appear on screen and will be displayed for all to see until the Host has confirmed your name and then they will rename your telephone number to either public or press.

### **Speaking at a Meeting**

If you are registered to speak at the meeting and when it is your turn to address the Meeting, the Chairman will invite you to speak giving the Host the instruction to unmute your microphone and switch your video on (where appropriate) therefore please pause for a couple of seconds to ensure your microphone is on.

Upon the conclusion of your speech/time limit, the Host will mute your microphone and turn off your video.

### **Meeting Etiquette for Registered Speakers - things to consider when speaking at public meetings on video**

- Background – the meeting is public and people will be able to see what is behind you therefore consider what you will have on display behind you.
- Camera angle – sit front on, upright with the device in front of you.
- Who else is in the room – make sure you are in a position where nobody will enter the camera shot who doesn't want to appear in the public meeting.
- Background noise – try where possible to minimise background noise.
- Aim to join the meeting 15 minutes before it is due to start.

**Minutes of the Planning Committee**

**18 May 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Barbara Lewis, Manning, Jacqueline Thomas and Barnby

(Also in attendance: Councillors Barrand, Brooks, Carter, Mandy Darling, Foster, Loxton and David Thomas)

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**78. South Devon Police Station, Southfield Road, Paignton (P/2019/1181)**

The Committee considered a reserved matters application for appearance, Landscaping, Layout & Scale (for 36 apartments), relating to major outline application P/2017/1117 (up to 46 apartments).

Prior to the meeting written representations were circulated to members.

Resolved:

Approved with the conditions outlined within the submitted report, with the final drafting of conditions delegated to the Assistant Director responsible for Planning and the resolution of any new material considerations that may come to light being delegated to the Assistant Director responsible for Planning, including the addition of any necessary further planning conditions or obligations.

**79. 3 Keysfield Road, Paignton (P/2020/0222)**

The Committee considered an application for partial demolition (rear wing) and the conversion and extension of the existing building to form 10 apartments (access, layout, scale and appearance detailed, and landscaping reserved).

Prior to the meeting written representations were circulated to members. In accordance with Standing Order B4.1 Councillor Carter addressed the meeting.

Resolved:

Approved subject to:

The final drafting of conditions delegated to the Assistant Director responsible for Planning, to include those listed within the submitted report and the resolution of

any new material considerations that may come to light being delegated to the Assistant Director responsible for Planning.

**80. Cary Park Tennis Club, Cary Avenue, St Marychurch, Torquay (P/2019/1230/PA)**

The Committee considered an application for the erection of three 6.7m high lighting stanchions, each with one LED luminaire, to provide lighting to Court 3. Replacement of the twelve existing luminaires for Courts 1 and 2 with eleven new LED luminaires. Provision of one courtesy luminaire to Court 4. (Proposal/description amended on 03.04.2020.).

Prior to the meeting written representations were circulated to members.

Resolved:

Approved, subject to the condition set out in the report and that the final drafting of conditions addressing of any further material considerations that may come to light be delegated to the Assistant Director with responsibility for Planning.

**81. 14-16 Midvale Road, Paignton (P/2020/0128)**

The Committee considered an application for Change of use from clinic (D1) to 10 x residential flats (C3).

Prior to the meeting written representations were circulated to members. At the meeting Simon Blake addressed the Committee in support of the application.

Resolved:

Approved subject to the final drafting of conditions and the resolution of any new material conditions that may come to light being delegated to the Assistant Director responsible for Planning.

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Chairman

## **Minutes of the Planning Committee**

**8 June 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Barbara Lewis, Manning, Jacqueline Thomas and Barnby

(Also in attendance: Councillors Morey, Bye, Foster, Kavanagh, Kennedy, David Thomas and John Thomas)

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### **82. Land North Of Totnes Road, Collaton St Mary, Paignton (P/2019/0281)**

The Committee considered an outline application for the development of up to 100 dwellings, including affordable and market housing. Associated landscaping, open space, drainage and highways infrastructure at Land North of Totnes Road together with new access onto Totnes Road.

Prior to the meeting, written representations were available on the Council's website. The Case Officer reported that additional representations had been received since the publication of the agenda, raising no new material planning considerations except in respect of drainage. An amended drainage plan had been submitted in response to the drainage comments raised. At the meeting the Chairman exercised his discretion and agreed to increase the time for oral representations. Roger Bristow and Catherine Fritz addressed the Committee against the application and Elliot Jones addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillors John Thomas and Kavanagh addressed the meeting.

Resolved:

That the application be deferred in order for Members to undertake a site visit to view the location of the proposed new access and pedestrian crossing and to enable officers to provide additional information and clarification with respect to the Road Safety Audit.

### **83. 1 Seaton Close, Torquay, TQ1 3UH (P/2020/0228)**

The Committee considered an application for a single storey extension to the north east (side) elevation and the extension of the existing balcony along the south east (front) elevation together with changes to fenestration.

Prior to the meeting, written representations were available on the Council's website. The Case Officer reported that additional representations had been received since the publication of the agenda, raising no new material planning considerations. The Case officer also reminded Members that the consultation period for the revised plans had not yet ended. At the meeting Alex D'Aprano addressed the Committee in support of the application.

Resolved:

Approved subject to the conditions detailed in the submitted report and subject also to no new material planning considerations being raised within the remaining consultation period. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning, Housing and Climate Emergency.

**84. Bishops Court Hotel, Lower Warberry Road, Torquay (P/2019/1274)**

The Committee considered an application for the conversion and refurbishment of mansion to form 5 apartments. Removal of redundant leisure complex and construction of 11 new houses within grounds. Conversion and refurbishment of 14 existing curtilage apartments to form 4 houses, and construction of 8 radial garages and 2 detached garages to replace surface parking.

Prior to the meeting, written representations were available on the Council's website. In accordance with Standing Order B4.1 Councillor Bye addressed the meeting.

Resolved:

Approved subject to;

- i) the conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning and Transport;
- ii) a Section 106 Legal Agreement to ensure that the viability of the scheme is reviewed and a contribution towards affordable housing is paid if the scheme turns out to be more profitable than originally anticipated and to rescind application P/2012/1001; and
- iii) 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 Emergency including the addition of any necessary further planning conditions or obligations.

**85. Bishops Court Hotel, Lower Warberry Road, (P/2019/1262)**

The Committee considered an application for listed building consent for conversion and refurbishment of mansion to form 5 apartments. Removal of redundant

leisure complex and construction of 11 new houses within grounds. Conversion and refurbishment of 14 existing curtilage apartments to form 4 houses, and construction of 8 radial garages and 2 detached garages to replace surface parking.

Prior to the meeting, written representations were available on the Council's website. In accordance with B4.1 Councillor Bye addressed the meeting.

Resolved:

Approved subject to:

- i) The conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;
- ii) 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.

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Chairman/woman

## Minutes of the Planning Committee

13 July 2020

-: Present :-

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Manning, Jacqueline Thomas, Barnby and Bye

(Also in attendance: Councillors Morey, Amil, Brooks, Foster, Kennedy, Chris Lewis,  
David Thomas, Mills and Stockman)

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**86. El Patio, 11 Alta Vista Road, Paignton (P/2019/0893)**

The Committee considered an application for outline consent for the demolition of existing building and construction of 10 residential flats with access, appearance, layout and scale matters given in detail and landscaping matters reserved.

Prior to the meeting, written representations were available on the Council's website.

Resolved:

Approved, subject to the conditions set out in the submitted report and subject to an additional condition requiring obscure glazing to the first floor windows on the eastern flank. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning, Housing and Climate Change.

**87. Land Adjacent To Unit 36, Torbay Business Park, Woodview Road, Paignton (P/2019/1307)**

The Committee considered an application for the construction of two commercial Units (reference 'F' and 'G') to provide 2044m<sup>2</sup> floor space. Unit F to be sub-divided into 5 smaller units. Unit G to be sub-divided into 3 smaller units. Buildings are surrounded by circulation space, car parking and hard standing to facilitate lorry deliveries and dispatches.

Prior to the meeting, written representations were available on the Council's website.

Resolved:

Approved, subject to:

- i) details of the specimen and size of the trees to be submitted and to the satisfaction of the Planning Authority prior to the commencement of construction;
- ii) the conditions set out in the submitted report with the final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning, Housing and Climate Change.

**88. Corbyn Head Hotel, Torbay Road, Torquay (P/2020/0420)**

The Committee considered an application for 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.

Prior to the meeting, written representations were available on the Council's website. At the meeting June Pierce addressed the Committee against the application.

In accordance with Standing Order B4.1 Councillor Amil addressed the meeting.

Resolved:

Approved, subject to:

- i) the completion of a deed of variation to the legal agreement signed as part of application P/2019/0699, compliance with the conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change; and
- ii) 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.

**89. Orchard Way, Edginswell Business Park, Torquay (P/2020/0024)**

The Committee considered an application for reconfiguration of car park – retrospective.

Prior to the meeting, written representations were available on the Council's website. At the meeting Barry Dunnage addressed the Committee against the application and James Clark addressed the Committee in support of the application.

Resolved:

Approved.

**90. Adjournment**

At this juncture the Planning Committee adjourned until 5.30 pm.

**91. Land North Of Totnes Road, Collaton St Mary, Paignton (P/2019/0281)**

The Committee considered an application for outline application: development of up to 100 dwellings, including affordable and market housing. Associated landscaping, open space, drainage and highways infrastructure at Land North of Totnes Road together with new access onto Totnes Road.

Prior to the meeting, Members of the Development Management Committee undertook a site visit and written representations were available on the Council's website. At the meeting Graham White and Catherine Fritz addressed the Committee against the application and Clare Hambleton Jon Lloyd addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Kennedy addressed the meeting.

Resolved:

Approved, subject to:

- i) The conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change;
- ii) The completion of a S106 Legal Agreement to secure the heads of terms as set out in the submitted report, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers; and
- iii) The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director for Planning, Housing and Climate Change, including the addition of any necessary further planning conditions or obligations.

**92. Land At Waterside Quarry, Waterside Road, Paignton (P/2019/0520)**

The Committee considered an application for outline consent with all matters reserved for three dwellings.

Prior to the meeting, written representations were available on the Council's website. The Case Officer reported that additional representations had been received since the publication of the agenda, raising no new material planning considerations. At the meeting James Mitchell addressed the Committee against the application and Adam Billings addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Mills addressed the meeting.

Resolved:

Approved subject to the conditions set out in the submitted report. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director for Planning, Housing and Climate Emergency.

**93. Stoodley Knowle School, Ansteys Cove Road, Torquay (P/2019/1330)**

The Committee considered an application for the demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure.

Prior to the meeting, written representations were available on the Council's website. At the meeting John Lestyn addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- i) Planning conditions as set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;
- ii) The completion of a S106 Legal Agreement to secure a review of Affordable Housing provision and other identified obligations, to include the provisions outlined within the report on terms acceptable to Officers.
- iii) With the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director responsible for Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

**94. Stoodley Knowle School, Ansteys Cove Road, Torquay (P/2019/1334)**

The Committee considered an application for Listed Building Consent for works to the listed buildings (related to P/2019/1334 - Demolition of school site and construction of 90 residential units (houses and apartments), with associated car parking, landscaping and infrastructure).

Prior to the meeting, written representations were available on the Council's website. At the meeting John Lestyn addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- i) Planning conditions as set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency and;
- ii) the resolution of any new material considerations that may come to light following Planning Committee being delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

**95. 58 Southfield Avenue, Paignton (P/2019/0923)**

The Committee considered an application for a proposed new dwelling in curtilage of property.

Prior to the meeting, written representations were available on the Council's website. The Case Officer reported that additional representations had been received since the publication of the agenda, raising no new material planning considerations. At the meeting Rob Tyler addressed the Committee against the application and Mike Hughes addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Sykes addressed the meeting.

Resolved:

That the application be refused for the following reason:

Given the siting, scale and design, the proposed development would constitute an overdevelopment of the site, having an overbearing impact on neighbours and the street scene and would be out of character with the street scene. As such, the proposed development does not represent sustainable development and is contrary to Policies DE1 and DE3 of the Torbay Local Plan and Policy PNP1(c) of the Paignton Neighbourhood Plan and the National Planning Policy Framework in particular paragraphs 127 and 130.

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Chairman/woman

## **Minutes of the Planning Committee**

**10 August 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Barnby, Brown, Bye, Dart, Dudley, Hill, Manning and Jacqueline Thomas

(Also in attendance: Councillors Morey, Barrand, Chris Lewis, Loxton, Mills,  
David Thomas, John Thomas and Brooks)

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### **96. Land To The North Of Totnes Road, Collaton St Mary, Paignton P/2020/0405**

The Committee considered an outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road.

Prior to the meeting, written representations were circulated to members. At the meeting Catherine Fritz and Malcolm Dicken addressed the Committee against the application and Colin Danks addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillors Kennedy, John Thomas and David Thomas addressed the meeting.

At the meeting the Planning Officer updated the Committee on further representations received and a Policy update on securing contributions in respect of health funding.

Resolved:

Approved, subject to;

- (i) the conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change;
- (ii) the completion of a S106 Legal Agreement to secure the heads of terms above, in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, on terms acceptable to Officers; and
- (iii) the resolution of any new material considerations that may come to light being delegated to the Assistant Director of Planning, Housing and Climate Change, including the addition of any necessary further planning conditions or obligations.

**97. Clennon Valley Goodrington, Paignton P/2020/0368**

The Committee considered an application for the provision of a pedestrian/cycle path linking Haytor Avenue (north of Roselands Primary School) to Dartmouth Road (north of Torbay Velopark) with associated landscape and ecological enhancement.

Prior to the meeting written representations were available on the Council's website. At the meeting Catherine Fritz and Mike Langman addressed the Committee against the application and Paul Osborne addressed the Committee in support of the application.

Resolved:

Approved subject to the planning conditions as outlined within the submitted report and an additional condition in respect of details of safe access and egress of bicycles onto the adopted highway network at the eastern entrance to the shared path near Torbay Leisure Centre being submitted and provided to the lifetime of the development.

**98. Beacon Hill Car Park, Beacon Quay, Torquay P/2020/0020/AD**

The Committee considered an application for the installation of seven new signs around the car park and foot path (as amended by plans received on 29 June 2020).

Prior to the meeting, Members of the Planning written representations were available on the Council's website.

Resolved:

Approved subject to the planning conditions as outlined within the submitted report and an additional condition in respect of details of safe access and egress of bicycles onto the adopted highway network at the eastern entrance to the shared path near Torbay Leisure Centre being submitted to and approved in writing by the Local Planning Authority and provided for the lifetime of the development.

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Chairman

## **Minutes of the Planning Committee**

**14 September 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Barnby, Brown, Dart, Dudley, Hill, Barbara Lewis, Manning and  
Jacqueline Thomas

(Also in attendance: Councillors Morey, Brooks, Mandy Darling, Kennedy, Chris Lewis  
and Loxton)

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### **1. Land off Luscombe Road, Paignton P/2020/0360**

The Committee considered an application for reserved matters pertaining to outline permission P/2014/0938. Matters reserved: appearance, landscaping, layout and scale.

Prior to the meeting, written representations were available on the Council's website. At the meeting Mr Rudge addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- i) the submission of a scheme to install vehicle electrical charging points;
- ii) the conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency; and
- iii) 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 Emergency, including the addition of any necessary further planning conditions or obligations.

### **2. 39 Wall Park Road, Brixham P/2019/0594**

The Committee considered an outline application for 3 dwelling houses and associated improvements to the private access lane, with all matters reserved.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Mr Jackson addressed the Committee in support of the application.

Resolved:

Approved, subject to:

- i) The conditions set out in the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;
- ii) The completion of a S106 Legal Agreement to secure the heads of terms as set out in the submitted report, in accordance with the adopted 'Planning Contributions and Affordable Housing' Supplementary Planning Document and the adopted 'Recreational Pressure on Berry Head' Supplementary Planning Document, on terms acceptable to the Assistant Director of Planning, Housing and Climate Emergency; and
- iii) 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 Emergency, including the addition of any necessary further planning conditions or obligations.

### **3. Land Adjacent To County Court, Nicholson Road, Torquay P/2020/0484**

The Committee considered an application for the construction of a car park.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Mr Butler of the Torquay Neighbourhood Forum addressed the Committee against the application and Ms Waller and Mr Stacey addressed the Committee in support of the application.

In accordance with Standing Order B4.1, Councillor Chris Lewis addressed the meeting.

Resolved:

Refused, for the reasons set out 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 of Planning, Housing and Climate Emergency.

#### **Reasons 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.

#### **4. Pier Point Cafe, Torbay Road, Torquay P/2020/0383**

The Committee considered an application for alterations and extensions to existing restaurant including change of use of part of site from retail (A1) to restaurant (A3). (Revised plans received 27/08/2020).

Prior to the meeting, written representations were available on the Council's website.

Resolved:

Approved, subject to:

- i) the conditions as set out in the submitted report (excluding the two planning conditions regarding the extract/ventilation system and Construction Method Statement, which have been amended following the receipt of additional information), with the final drafting of conditions delegated to the Assistant Director for Planning, Housing and Climate Emergency;
- ii) the resolution of any new material planning considerations that may come to light following Planning Committee to be delegated to the Assistant Director for Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

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Chairman/woman

## **Minutes of the Planning Committee**

**12 October 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Barbara Lewis, Manning, Jacqueline Thomas and Loxton

(Also in attendance: Councillors Morey, Atiya-Alla, Brooks, Chris Lewis and David Thomas)

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### **5. Apologies for absence**

It was noted that since publication of the Agenda there had been a change to political balance of this Committee which was approved at Council on 8 October 2020 - there were 3 Independents (Councillors Brown, Kennedy and Manning), 3 Liberal Democrats (Councillors Dart, Dudley and Pentney) and 3 Conservatives (Councillors Hill, Barbara Lewis and Jacqueline Thomas).

It was reported that in accordance with the wishes of the Independent Group Councillor Loxton would be substituting for Councillor Kennedy for this meeting.

### **6. Highstead, Bronshill Road, Torquay TQ1 3HD P/2020/0307**

The Committee considered an application for the construction of dwelling house.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website. At the meeting Ian Skelton addressed the Committee against the application. In accordance with Standing Order B4.1 Councillor Atiya-Alla addressed the Committee.

Resolved:

Approved subject to the conditions (excluding the planning conditions relating to finished floor levels) set out in the submitted Report plus the inclusion of an additional condition in respect of a hedge protection plan and the final drafting of conditions being delegated to the Assistant Director for Planning, Housing and Climate Emergency which address any further material considerations which may come to light.

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Chairman

## **Minutes of the Planning Committee**

**9 November 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Barbara Lewis, Manning,  
Jacqueline Thomas and Kennedy

(Also in attendance: Councillors Morey, Brooks, Chris Lewis, Loxton, Mills and  
David Thomas)

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### **7. Former Torbay Holiday Motel, Totnes Road, Paignton. TQ4 7PP P/2019/0615**

The Committee considered an outline application for the demolition of Torbay Holiday Motel and redevelopment of site for up to new 39 residential dwellings together with the retention of Beechdown Court, with detailed access (Matters of Appearance, Landscaping, Layout and Scale reserved)(as revised by plans received 20.03.2020 and description amended 24.03.2020 and plans received 09.10.2020).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website. At the meeting Andrew Lavey addressed the Committee against the application and Catherine Fritz addressed the meeting on behalf of the Paignton Neighbourhood Forum. Michael Drake addressed the meeting in support of the application.

Resolved:

Approved: Subject to:

- (i) the Planning conditions set out in the supported report, with the final drafting of conditions being delegated to the Assistant Director of Planning, Housing and Climate Emergency;
- (ii) the completion of a Section 106 Legal Agreement to secure heads of terms in accordance with the adopted Planning Contributions and Affordable Housing Supplementary Planning Document, and that secures future access to the wider masterplan area to the east of the site is not inhibited, delegated to the Assistant Director of Planning, Housing and Climate Emergency;
- (iii) a further condition requiring detail of low loaders accessing Beechdown Park being resolved at Reserved Matters; and

- (iv) the resolution of any new material considerations that may come to light being delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

**8. Windmill Hill Sports Field, Higher Audley Avenue, Torquay TQ2 7PG P/2020/0541**

The Committee considered an application for the installation of dug-outs on football pitch.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website.

Resolved:

Approved, subject to the conditions set out in the submitted Report and that the final drafting of conditions and the addressing of any further material considerations that may come to light be delegated to the Assistant Director of Planning, Housing and Climate Emergency.

**9. Watcombe Hall, Watcombe Beach Road, Torquay P/2020/0627**

The Committee considered an application for conversion of existing care home into 8 flats & 4 houses with extensions, alterations & landscaping. Demolition of single storey link building & boiler house.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website.

Resolved:

Approved subject to the conditions set out in the submitted 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 being delegated to the Assistant Director of Planning, Housing and Climate Change, including the addition of any necessary further planning conditions or obligations.

**10. Land Rear Of 107 Teignmouth Road, Torquay, TQ1 4HA P/2020/0974**

The Committee considered an application for construction of twelve flats with associated parking (retrospective).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website.

Resolved:

Approved subject to the conditions as set out in the submitted Report with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency and the resolution of any new material considerations that may come to light being delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Chairman

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## **Minutes of the Planning Committee**

**14 December 2020**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Kennedy, Barbara Lewis, Mills and  
Jacqueline Thomas

(Also in attendance: Councillors Amil, Barrand, Brooks, Carter, Mandy Darling, Foster,  
Law, Chris Lewis, Morey, Long, Stockman and David Thomas)

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### **11. Apologies for absence**

It was reported that, in accordance with the wishes of the Independent Group, the membership of the Committee had been amended for this meeting by including Councillor Mills instead of Councillor Manning.

### **12. Land At Sladnor Park, Sladnor Park Road, Torquay, TQ1 4TF P/2018/1053**

The Committee considered an application for the demolition of existing pairs of chalets (with the exception of one pair) and the development of a Continuing Care Retirement Community comprising the erection of buildings to accommodate 43 assisted living units and 116 close care units, associated health and wellness facilities, staff facilities, internal roads, surface and underground car parking (including associated engineering operations), footpaths, ancillary buildings, landscaping, drainage works and associated infrastructure.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Dr Rodney Horder, Christine Davies, Nigel Goodman and Dr Vivienne Thorn addressed the Committee against the application and Leon Butler addressed the meeting on behalf of the Torquay Neighbourhood Forum. Jonathan Rainey and Keith Cockell addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillors Foster and Brooks addressed the meeting.

Resolved:

Refused for the reasons set out in the submitted report.

**13. Duration of Meeting**

At this junction, the Chairman reported that the meeting had exceeded four hours in duration and indicated that the remainder of the business left on the agenda should be transacted at the meeting. In accordance with Standing Order A11 the Committee agreed to continue the meeting.

**14. Crossways Shopping Centre, Hyde Road, Paignton P/2020/0731**

The Committee considered an application for the redevelopment of redundant shopping centre comprising: demolition of shopping centre and associated multi-storey car park and erection of five storey sheltered (use class C3) scheme block of 13 flats, commercial and associated ancillary space. Erection of seven storey extra care (use class C2) scheme of 76 flats, commercial, communal and associated ancillary space.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. In accordance with Standing Order B4.1 Councillor Carter addressed the meeting.

Resolved:

That planning permission be granted subject to:

- (i) confirmation from the Highway Authority that the additional highway information is acceptable and that they raise no objection to the proposal;
- (ii) Natural England having the appropriate time to respond to consultations on matters of ecology and raise no objection to the proposed development and subject to confirmation that all necessary pre-determination ecological assessments have been undertaken and properly assessed;
- (iii) the conditions detailed at the end of the submitted report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Change; and
- (iv) the resolution of any new material considerations that may come to light following the 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 (unanimous).

**15. Site Adjacent To Brixham Cricket Club, 83 North Boundary Road, Brixham TQ5 8LH P/2020/0480**

The Committee considered an application for an outdoor football pitch for sports and recreational use (part retrospective).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Jonathan Ling-Cotty addressed the Committee in support of the

application. In accordance with Standing Order B4.1 Councillor Stockman addressed the meeting.

Resolved:

Approved subject to:

- (i) the completion of a Section 106 Agreement to secure community use of the site;
- (ii) the conditions set out in the submitted report; and
- (iii) the final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning, Housing and Climate Change (unanimous).

**16. Cary Cottage Barn, Cockington Lane, Torquay, TQ2 6XA P/2018/0380/PA**

The Committee considered an application for the conversion of existing barn into habitable accommodation.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Leon Butler addressed the Committee against the application. In accordance with Standing Order B4.1 Councillor Amil addressed the meeting.

Resolved:

Approved subject to:

- (i) the receipt of satisfactory revised plans;
- (ii) the conditions set out in the submitted report, plus an additional condition to ensure that Pilkington Grade 1 obscure glass is installed in the windows on the first floor south west elevation of the building; and
- (iii) the final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning, Housing and Climate Change.

**17. Cary Cottage Barn, Cockington Lane, Torquay TQ2 6XA P/2020/0677/LB**

The Committee considered a listed building application for the conversion of existing barn into habitable accommodation.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Leon Butler addressed the Committee against the application. In accordance with Standing Order B4.1 Councillor Amil addressed the meeting.

Resolved:

That delegated authority be given to the Assistant Director of Planning, Housing and Climate Emergency, to grant listed building consent, subject to:

- (i) the conditions set out in the submitted report; and
- (ii) the final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning, Housing and Climate Change.

**18. The Riviera Hotel, Belgrave Road, Torquay TQ2 5HJ**

The Committee considered an application for demolition of 18 hotel rooms; replacement with 47 en-suite hotel rooms and with associated landscaping.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Brett Powis addressed the Committee in support of the application and Leon Butler addressed the meeting on behalf of the Torquay Neighbourhood Forum.

Resolved:

Approved subject to:

- (i) the conditions set out in the submitted report;
- (ii) the final drafting of conditions to be delegated to the Assistant Director of Planning, Housing and Climate Change; and
- (iii) the resolution of any new material considerations that may come to light following Planning Committee and re-advertising of the application, to be delegated to the Assistant Director of Planning, Housing and Climate Change, including the addition of any necessary planning conditions or obligations (unanimous)

(Note: Councillor Barrant joined the meeting during discussion of this item.)

Chairman/woman

## **Minutes of the Planning Committee**

**11 January 2021**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Barbara Lewis, Manning, Jacqueline Thomas and Kennedy

(Also in attendance: Councillors Brooks and Foster)

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**19. Kingdom Hall Of Jehovahs Witnesses, St James Place, Torquay TQ1 3LS  
P/2020/0369**

The Committee considered an application for the conversion and part demolition of Kingdom Hall to form three dwellings. (As revised by plans received 09.10.2020.).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website. At the meeting Mr Chris Reynard addressed the Committee against the application and Mr Tony Drake addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillor Brooks also addressed the Committee.

Resolved:

That the application be refused on the grounds of overdevelopment on a restricted site and the lack of amenity space.

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Chairman

**Minutes of the Planning Committee**

**8 February 2021**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Dart, Dudley, Barbara Lewis, Manning and Jacqueline Thomas

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**20. Apologies for absence**

Apologies for absence was received from Councillors Brown and Hill.

**21. Beacon Cove, Parkhill Road, Torquay TQ1 2EP P/2019/1023**

The application was deferred for further information.

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Chairman

## **Minutes of the Planning Committee**

**8 March 2021**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Kennedy, Barbara Lewis, Manning and  
Jacqueline Thomas

(Also in attendance: Councillors Brooks, Chris Lewis and Sykes)

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### **22. 58 Southfield Avenue, Paignton TQ3 1LH P/2020/1130**

The Committee considered an application for the formation of a dwelling in the curtilage of the property. This was resubmission of P/2019/0923 with revised plans received 27.01.21.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website. At the meeting Mr Rob Tyler addressed the Committee against the application and Anna Suszczynska and Mr Munroe addressed the Committee in support of the application. In accordance with Standing Order B4.1 Councillors C Lewis and Sykes also addressed the Committee.

Resolved:

Approved subject to approval subject to the conditions and informatives set out in the submitted report with the final drafting of conditions, and addressing any further material considerations that may come to light being delegated to the Assistant Director responsible for Planning, Housing and Climate Emergency.

### **23. 30-34 The Terrace, Torquay P/2020/0999**

The Committee considered an application for the conversion of office buildings and minor alterations to form 12 residential apartments, with cycle/bin store and parking.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website. At the meeting Dr Rodney Horder and Mr Ian Roach addressed the meeting.

Resolved:

Approved subject to the conditions and informatives set out in the submitted report with the final drafting of conditions addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning, Housing and Climate Emergency.

**24. 30-34 The Terrace, Torquay P/2020/1000**

The Committee considered an application for listed building consent for conversion of office buildings and minor alterations to form 12 residential apartments, with cycle/bin store and parking.

Prior to the meeting, Members of the Planning Committee undertook a site visit and written representations were available on the Council's Website. At the meeting Dr Rodney Horder and Mr Ian Roach addressed the meeting.

Resolved:

That Listed Building Consent be granted, subject to the conditions and informatives set out in the submitted report with the final drafting of conditions addressing any further material considerations that may come to light being delegated to the Assistant Director of Planning, Housing and Climate Emergency.

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Chairman

## **Minutes of the Planning Committee**

**12 April 2021**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Kennedy, Barbara Lewis, Manning and Jacqueline Thomas

(Also in attendance: Councillors Morey and Brooks)

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### **25. Minutes' Silence**

As a mark of respect, the Committee commenced with a minutes' silence to honour the life and passing of His Royal Highness, The Duke of Edinburgh, Prince Phillip.

### **26. Site Of Former Conway Court Hotel, Warren Road, Torquay. TQ2 5TS P/2020/0925**

The Committee considered an application for the formation of 14 apartments with car parking and vehicular/pedestrian access (as revised by plans received 15.03.2021).

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website.

At the meeting Mr Paul Wyman addressed the Committee against the application, Dr Rodney Horder on behalf of Torquay Neighbourhood Forum addressed the meeting and Mr Chris Kenny addressed the Committee in support of the application.

Resolved:

Approved, with the conditions as set out in the submitted report with the final drafting of conditions being delegated to the Assistant Director of Planning, Housing and Climate Emergency, including an extra conditions to ensure the stability of the land and that designing out crime standards are met, together with the resolution of any new material considerations that may come to light.



## **Minutes of the Planning Committee**

**24 May 2021**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Brown, Dart, Dudley, Hill, Kennedy, Barbara Lewis,  
Loxton and Jacqueline Thomas

(Also in attendance: Councillors David Thomas, Chris Lewis, Mills (at the meeting venue)  
Cllr Amil, Law, Cllrs Steve and Mandy Darling, Brooks, Barrand (virtually))

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### **27. Apologies for absence**

It was reported that, in accordance with the wishes of the Independent Group, the membership of the Committee had been amended for this meeting by including Councillor Loxton instead of Councillor Mills.

### **28. Minutes**

The Chairman deferred this item to the next meeting.

### **29. Order of Business**

The Chairman varied the order of business to enable agenda Item 6 (Land at Dartmouth Road, Paignton, TQ4 6LL P/2021/0385) to be considered before Item 5 (Pier Point Café, Torbay Road, Torquay, TQ2 5HA P/2020/1288).

### **30. Disclosure of Interests**

Councillor Jacqueline Thomas declared a non-pecuniary interest in respect of Land at Dartmouth Road as she used the same mobile provider 'Three'.

### **31. Pier Point Café, Torbay Road, Torquay, TQ2 5HA P/2020/1288**

The Committee considered an application for alterations and an extension to the existing restaurant to incorporate a takeaway element, together with a change of use of retail element to restaurant/takeaway elements only.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website.

At the meeting Dr Rodney Horder, on behalf of Torquay Neighbourhood Forum, addressed the Committee (via Zoom) in support of the application.

Resolved:

Approve subject to the conditions set out in the submitted report.

**32. Land At Dartmouth Rd, Dartmouth Rd, Paignton, TQ4 6LL P/2021/0385**

The Committee considered an application for prior approval of the siting and appearance of the installation of a 20 metre telecommunications mast with associated street cabinets.

Prior to the meeting, Members of the Planning Committee undertook a virtual site visit and written representations were available on the Council's Website.

At the meeting, the Development Management Service Manager reported that additional representatives had been submitted following publication of the agenda. The representations raised two new issues namely: alternative sites for the mast; and the mast being used for surveillance and so invading people's privacy.

Mr Brian Payne then addressed the Committee (via Zoom) against the application. In accordance with Standing Order B4.1 Councillor Mills also addressed the Committee (physical attendance at the meeting venue).

Resolved:

Approved with reasons as outlined in the submitted report.

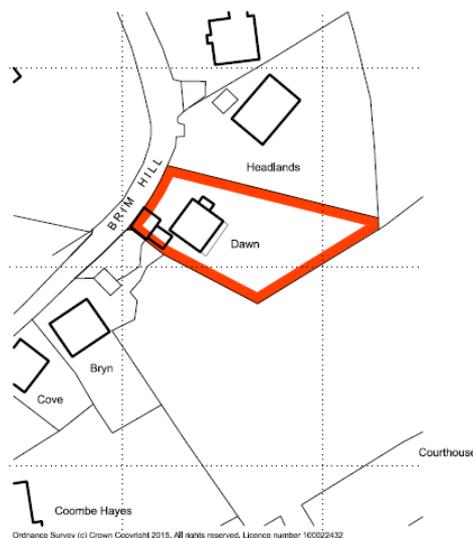
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Chairman



Application Site Address	Dawn, Brim Hill, Torquay, TQ1 4TR
Proposal	Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration (part retrospective).
Application Number	P/2020/1044
Applicant	Mr Tony Payne
Agent	DJMA Architects Ltd
Date Application Valid	27/11/20
Decision Due date	22/01/21
Extension of Time Date	N/a
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing & Climate Emergency.
Reason for Referral to Planning Committee	Councillors have referred the case to Planning Committee.
Planning Case Officer	Sean Davies

## Location Plan



## Site Details

The site at Dawn Brim, Torquay, TQ1 4TR is a detached dwelling and its curtilage. The site is within the Countryside Area and Undeveloped Coast as mapped in the Local Plan and

falls within the Maidencombe Village Envelope. The site is just outside the Maidencombe conservation area. The boundary of the conservation area runs along the south and west boundary of the site and along the middle of Brim Hill outside the front of the site to the north. The site is within a Landscape Connectivity Zone within the South Hams Special Area of Conservation for Greater Horseshoe bats.

### **Description of Development**

Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration (part retrospective).

The proposals are substantially similar to those granted approval in 2016 (P/2016/0471) subsequently successfully varied in 2018 (P/2018/0131).

#### **Single storey lower ground floor extension to rear (SE) with terrace over**

This element involves providing a new lower ground floor single storey rear extension running across the full width of the building plus the width of a new side extension. This extension would be approximately 1.4m deep. There would be a terrace over this extension to be accessed directly from new glazed doors at upper ground floor level in both the existing building and afore mentioned side extension (note: there is already a terrace in this approximate position across the full width of the existing building). The side of the terrace facing south west (towards Bryn) would be capped with a stone wall and opaque glazed privacy screen.

At lower ground floor level an existing decking area would be replaced, with vertical timber cladding from the level of the decking to the ground approximately 2m in height.

This element of the proposals is substantially the same as the previously approved scheme except that details of fenestration have changed and a new rear facing window is now proposed from a new en-suite bathroom to be formed in the north east elevation.

#### **Two storey side extension (SW)**

This element involves a sedum flat roof side extension running from the back of the existing garage to the rear of the existing building. The sloping nature of the site means that this extension would have two storeys at the rear and one at the front. The front part of the extension would house a utility room and W/C. At the rear there would be a new bedroom at lower ground floor level and a cinema room at upper ground floor level. The former would have glazed doors leading onto the terrace described above. The latter would have glazed doors onto the existing decking. The side of the extension would be faced with natural stone. The main differences between this element of the proposals and the previously approved scheme are that (i) previously approved curved glazing at upper ground floor level in the rear of the extension is now replaced with flat glazing parallel to the front of the terrace mentioned above, increasing its footprint slightly; (ii) the stone faced side of the extension (facing Bryn) would extend further to the rear elevation of the existing dwelling at upper ground floor level (replacing the previously approved curved glazing); (iii) there would be a new second small window in the side of the extension at lower ground floor level to the proposed bedroom.

The extension would be approximately 4.7m wide, 12.8m long and set back approximately 1m from the boundary with Bryn. It would fit under the eaves of the main dwelling and would be approximately 5.2m high above the level of the existing decking at the rear.

#### Single storey upper ground floor extension to side (NE) and changes in fenestration

This element of the proposals involves enlarging an existing single storey extension in the side of the dwelling facing Headlands. The extension currently forms the porch providing entrance to the dwelling. The proposals would bring this extension forwards by approximately 2m so that it was flush with the front of the main dwelling and re-purpose it as an en-suite/wardrobe to bedroom 3. The existing pitched roof would be raised to accommodate the greater width of the extension.

There would also be a new floor to ceiling height window at the rear of the building.

These elements of the proposals remains the same as in the previously consented scheme.

#### Changes to fenestration at front (NW)

At the front of the building a new front door would be sited between the existing bay windows. The left hand of these bay windows (when viewed from the front) would be moved to the edge of the building and the existing pitched roofs over both bay windows would be made higher. This element of the proposals remains the same as in the previously consented scheme.

#### Raise roof ridge line and change roof profile to form attic room

The roof of the existing dwelling would be raised approximately 1m to accommodate a new bedroom. This would have roof lights in the north west, north east and south east elevations and a small recessed balcony at the rear.

There would also be a new chimney in the south west side of the roof.

These elements of the proposals remains the same as in the previously consented scheme.

#### **Pre-Application Enquiry**

None.

#### **Relevant Planning Policy Context**

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

##### Development Plan

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

##### Material Considerations

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

### **Relevant Planning History**

CN/2018/0068: Discharge of conditions 1,3 & 8 (of approval P/2016/0471/HA - Varied by P/2018/0311 - Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height. Re-Submission of P/2015/1025) - Cond 1: Stone sample. Cond 3: Lighting. Cond 8: Bat licence. APPROVED

P/2018/0311: Variation of condition P1 (approved documents) of application P/2016/0471 (Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height) Alterations sought: Raise in ridge height, alterations to fenestration including glazing on south east and north east elevation and relocation of roof window in sedum roof. APPROVED

P/2017/1290: Non Material amendment re P/2016/0471 (Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height) - Change of roof material WITHDRAWN

P/2017/1292: Non Material Amendment on application P/2016/0471: Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height (Re-Submission of P/2015/1025) (Revised description). Amendment sought: Alterations to glazing on south east and north east elevation. Roof window in sedum roof moved. WITHDRAWN

P/2016/0471: Extensions and alterations to house and garage including side & roof extensions, extended terrace & balcony and raise in ridge height (Re-Submission of P/2015/1025) (Revised description) APPROVED

P/2015/1025: Extensions and alterations including side & roof extensions & extended terrace & balcony REFUSED

DE/2015/0017: Joining of utility room to main dwelling house to include small extension. SPLIT DECISION

P/2014/0913: Proposed extension to Southwest facing elevation and alteration to existing roof REFUSED

P/2007/0574: Conversion of Outbuildings to Ancillary Accommodation APPROVED

### **Summary of Representations**

Approximately 13 representations have been made; 12 objections and 1 in support:

#### **Maidencombe Community Group**

- Application form contains error as states work has not started without consent even though previous permission (P/2016/0471) has lapsed.
- Proposals are contrary to policy TH12 of the Torquay Neighborhood Plan as scale, height, footprint, location and massing not in keeping with built surroundings and does not respect local character/conserves or enhance heritage or landscape assets where impacted.
- Scale of proposal contrary to policy DE1 subsection 14 of the Local Plan as does not relate to surrounding built environment in terms of scale, height and massing.

- Proposals are contrary to policy TH8 of the Torquay Neighbourhood Plan as does not reflect local character (height, scale, bulk and identity of surroundings).
- Proposals contrary to Policy TH11 as do not protect or enhance character or setting of conservation area.
- Proposals contrary to policy DE3, subsections 1, 3 and 4 of the Local Plan due to visual intrusion, overbearing scale, overlooking, privacy and light pollution.
- Proposals contrary to policy SS8 of the Local Plan due to lighting impacts on local environment.
- Concern that proposals would double the original footprint and substantially increase massing.
- Concern that the LPA should be consistent with other planning decisions at nearby sites and that approval would set a precedent for further inappropriate development.
- The proposal would build up to the south west boundary of the conservation area with no possibility of screening – difficult to see how proposed two storey extension can be built without encroaching on conservation area.
- Concern that previous applications to develop the plot adjacent to the south west boundary have been refused – concern that if approval granted for current application and for development on the adjacent site then this could lead to an unacceptable bulk of buildings in a confined space.
- Concern that submitted plans deficient and that application cannot be determined: very few measurements, plans contain “do not scale from this drawing” notation, proposed layout misleading as proposed extensions are faint, dotted line indicating current roof line inaccurate. No information provided as to current and existing roof heights. There are also inconsistencies in the plans (garage roof in NE/SE vs NW elevations, terrace/decking at lower ground level in SW and NE elevations).
- Southwest elevation: Proposed roof height unclear; not clear what proposed roof attic internal layout is; concerns about footprint of proposed decking; concern about effect of boundary wall on character of area.
- Southeast elevation: concerns about increase in footprint, height and use of glazing – out of character with local area. Plans misleading.
- Northwest elevation: garage has different roof to other elevations. Plans unclear.
- Northeast elevation: replacement decking not shown. Proposed ground floor window and veranda has potential to overlook Headlands.
- Proposed layout and footprint: plans misleading.
- Permitted development rights: “fall back position” as described in Design and Access Statement is unrealistic.
- Surface flooding and rise in water table: concerns about drainage arrangements. Local properties rely on private sewage systems as there is no mains drainage and that proposals would increase impermeable area of development, leading to private drainage systems becoming inoperable.

*Maidencombe Community Group*

Comments made in response to letter from applicant's agent dated 15/01/21:

- 2016 permission (P/2016/0471) has lapsed and so should not be taken account of in determining current application.
- Concern that application is assessed against policies in Torquay Neighbourhood Plan.
- Claim that proposed development could be progressed under permitted development rights incorrect for reasons set out in objection submitted by Clarke Willmott solicitors.
- Trees have been removed at the site without planning permission.

*Maidencombe Residents' Association*

- The proposals are contrary to the Local Plan Policies: SS1, SS3, SS8, SS9, SS10, C1, C2, C4, NC1, HE1, DE1, DE3, DE4, DE5, ER1, ER2, ER4. And also Torquay Neighbourhood Plan Policies: TS1, TH8, TH10, TH11, TH12, TE5.
- Permitted development rights, as described in the Design and Access statement, do not

apply since the property pre-dates 1948.

- The application form states that work has started without consent but significant works have taken place.

### The Bryn

- Application form contains errors which invalidate the proposals: work has started without consent, pre-planning advice received in 2015 is not relevant since relevant policies have come into force since this date.
- Proposals should be determined as a new application and assessed against current planning legislation.
- Proposals contrary to policy TH12 of the Torquay Neighbourhood Plan. Scale, height, footprint (30-40% increase), location and massing out of keeping with built surroundings and overall physical characteristics of Village Envelope.
- Concerns about visual appearance of proposed two storey extension, lower ground floor extension, increase in ridge height, additional decking with store room below creating appearance of four storey dwelling.
- Building up to the boundary of the conservation area (south west) will prevent any tree planting to shield views.
- Proposals contrary to policy DE1 subsection 14 of the Local Plan requiring proposals to relate to surrounding built environment in terms of scale, height and massing.
- Proposals contrary to policy DE3 subsection 1 of the Local Plan by virtue of visual intrusion, overlooking and privacy. Workmen working on lower ground floor extension have been able to look directly into The Bryn. Height and depth of proposals mean they would completely overlook house and garden. As extension is to be built to edge of boundary it will not be possible to shield with trees etc.
- Proposals contrary to policies TH2, TH8 and TH11 of the Torquay neighbourhood Plan.
- Proposals could jar with setting of grade II listed buildings and character of conservation area, affecting how conservation area is viewed and what can be seen from within it. Style, scale and materials are inappropriate.
- Increase in width along south east and extensive glazing does not respect character of neighbouring properties or setting of heritage assets in the Combe.
- Submitted plans contain very few measurements. A caveat "do not scale" means that development could not be controlled if approved. Concern that increase in ridge height shown on plans is inaccurate and that roof will need to be raised by 1.5-1.8m.
- Proposed layout is misleading. A judge found against Torbay Council in a recent case that it is unlawful to approve plans which cannot be controlled.
- No other property in Maidencombe has been allowed to increase ridge heights, footprint or massing like this before.
- Claim that development could be progressed under permitted development rights incorrect due to restrictions placed on Classes A, AA and B and so the fall-back position does not carry weight in determining the application.

### Clarke Wilmott Solicitors acting for The Bryn

- The planning application is deficient. Objection from Maidencombe Community Group sets out examples of ways submitted plans are wrong or inconsistent with result that development could not be constructed in line with submitted plans.
- Existing and proposed floor levels have not been provided – significant given sloping site.
- Ecological assessment deficient: out of date, does not acknowledge Landscape Connectivity Zone for South Hams Greater Horseshoe Bats SAC. Concern that light spill from additional glazing and proposed external lights should be assessed in relation to potential to disturb bats. Concern that development has not been designed with regard to the conclusions of the Ecological Assessment and that the Ecological Assessment has been carried out without having regard to the proposed plans (i.e. viability of proposed roosting opportunities for bats in brightly lit environment). Concern that a lighting assessment should be carried out to inform the updated Ecological Assessment.

- Concern that permission P/2016/047 has lapsed since works did not start on site until 2020 and that Torbay Council has not addressed a formal complaint made by the Maidencombe Community Group about unauthorised development.
- Concern that the application should be assessed against the Torquay Neighbourhood Plan, adopted in 2019 and that the LPA cannot lawfully seek to rely on the decision making process undertaken in respect of the 2016 application.
- Concern that the fall-back position as described in the Design and Access Statement (DAS) should not be treated as a material consideration since the General permitted Development Order does not permit the type of development shown in the DAS. Examples include: the principle elevation of the original dwelling house is actually the rear of the house as currently laid out (A1(e)). The side extension would have a width greater than half the width of the original (i.e. as originally built) dwelling house (A1(j)).
- The application should be determined as fresh application without regard to the previous 206 permission as the development plan has changed. The objection made by the Maidencombe Community Group assesses the application against relevant policies – the objection made by Clarke Wilmott solicitors agrees with this assessment.

#### Court House

- Out of keeping with local area.
- Negative effect on appearance of conservation area.
- Visual impact on Grade ii listed buildings in Maidencombe.
- Increased run off and rising water table could impact on the Court House's foundations and septic tank.
- Construction work could destabilise ground leading to land slips.
- Previous approvals at site inconsistent with other refusal decisions at nearby sites.
- Previous consent P/2016/0471 has now lapsed.
- Torquay Neighbourhood Plan has now been adopted so policies now carry full weight.
- Approval would set precedent for overdevelopment of other properties.
- Submitted plans not easy to understand and there is note that they are not to scale.
- Concern that proposals would involve significant increase in height, footprint (extending to boundary (south west)).
- Hedgerows and trees will be removed speculation that this work has already taken place.
- Extensive glazing to south east will cause significant light pollution in a dark area.
- Proposals are contrary to Torquay Neighbourhood Plan Policies TH11 and TH12.

#### Wekiva

- Proposals area contrary to Torquay Neighbourhood Plan Policies TH8, TH10, TH11 and TH12.
- Scale, height, bulk and character of proposals are out of keeping with historic/rural character of Maidencombe and coastal setting.
- Site's boundary abuts conservation area on two sides – proposals would negatively impact on area and its heritage assets.
- Concern that the applicant's agent has close relationships with Torbay Council and the TDA which could influence the planning decision.

#### Oakdene

- Submitted application should be considered on its own merits and assessed against Torquay Neighbourhood Plan as previously consented application P/2016/0471 has lapsed.
- Proposals are contrary to Torquay Neighbourhood Plan Policies TH8, TH10, TH11 and TH12.
- Submitted plans are deficient as no structural dimensions or topographical information supplied and as plans are references as being not to scale.
- Concern that deficiencies in the plans mean that the LPA could not control construction if approval granted.
- Size, height bulk and mass contrary to numerous policies in Torbay Local Plan and out

- of character with local area.
- No meaningful environmental assessment on proposals' impact on conservation area, wildlife or Grade II listed buildings has been provided.
- Concern about impact of proposals on drainage in an area mapped by Environment Agency as Flood Risk 3.
- Claim that proposed development could be progressed under permitted development rights incorrect as property pre-dates 1948.

#### Wendy

- The proposals do not take account of policies TH8, TH11 or TH12 of the Torquay Neighbourhood Plan.
- The removal of natural shielding (trees etc.) to facilitate views has made development stick out from all over the Combe.
- Approval would set precedent for further inappropriate development.

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

An objection has been received alleging that the proposals are contrary to the Local Plan Policies: SS1, SS3, SS8, SS9, SS10, C1, C2, C4, NC1, HE1, DE1, DE3, DE4, DE5, ER1, ER2, ER4. And also Torquay Neighbourhood Plan Policies: TS1, TH8, TH10, TH11, TH12, TE5.

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

1. Principle of Residential Development
2. Sustainable growth
3. Environment
4. Transport
5. Countryside, coast and greenspace
6. Nature conservation
7. Historic environment
8. Design
9. Conservation and the historic environment
10. Environmental resources
11. Special protection for rural village environments

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

The proposal seeks permission for Extensions and renovations to existing house and garage: Single storey lower ground floor extension to rear (SE) with terrace over. Two storey side extension (SW). Single storey upper ground floor extension to side (NE). Raise roof ridge line and change roof profile to form attic room. Changes to fenestration. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

#### **2. Planning permission P/2016/0472**

Objections have been made that planning permission P/2016/0471 has lapsed and so that statement made in the application form that works have not started without consent is incorrect. Also that the application is invalid because of this and that works already carried out are therefore unauthorised.

The Council believes that planning permission P/2016/0471 has lapsed and has advised the applicant of this, understood to have prompted the current application. Officers are content that the current application is valid. Works have commenced at the site. It is understood that works have been stopped whilst the application is determined.

## **Spatial Strategy and Policies for strategic direction**

### **3. Sustainable growth**

Policy SS1 (Growth Strategy for a prosperous Torbay ) of the Local Plan states that the Local Plan promotes a step change in Torbay's economic performance and identifies Strategic Delivery Areas. Policy TS1 (Sustainable development) of the Torquay Neighbourhood Plan states that states that development proposals should accord with policies in the Torquay Neighbourhood Plan unless material considerations indicate otherwise. Policy SS3 (Presumption in favour of sustainable development) of the Local Plan states that the Council will take a positive approach when considering development proposals and that planning applications that accord with policies in the Local Plan (and where relevant Neighbourhood Plans) will be approved unless material considerations indicate otherwise.

Objections have been made that the proposals are contrary to the Policies above. Reasons include that they do not safeguard the natural/built environment, are contrary to policies in the Torquay neighbourhood Plan and adversely affect the setting of Grade II listed buildings.

Officers have considered these points but do not believe that the proposals are contrary to any of these policies (further details are provided in the discussion below).

The proposals are therefore considered to be in accordance with Policies SS1, SS3 and TS1.

### **4. Environment**

Policy SS8 (Natural Environment) of the Local Plan sets out that all development should have regard to its environmental setting. Policy SS9 (Green infrastructure) of the Local Plan states that the Local Plan seeks to integrate new development with strategic green infrastructure, and to protect and provide high quality green space at a local level. Policy SS10 (Conservation and the historic environment) of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Also that proposal that may affect heritage assets will be assessed in view of their impact on listed and historic buildings and their settings.

Objections have been made that the proposals are contrary to the Policies above. Reasons include that excessive glazing will affect dark skies, "removal of trees bordering conservation area" and the impact that the proposals will have on the setting of listed buildings and the Maidencombe Conservation Area, the boundary of which skirts the site.

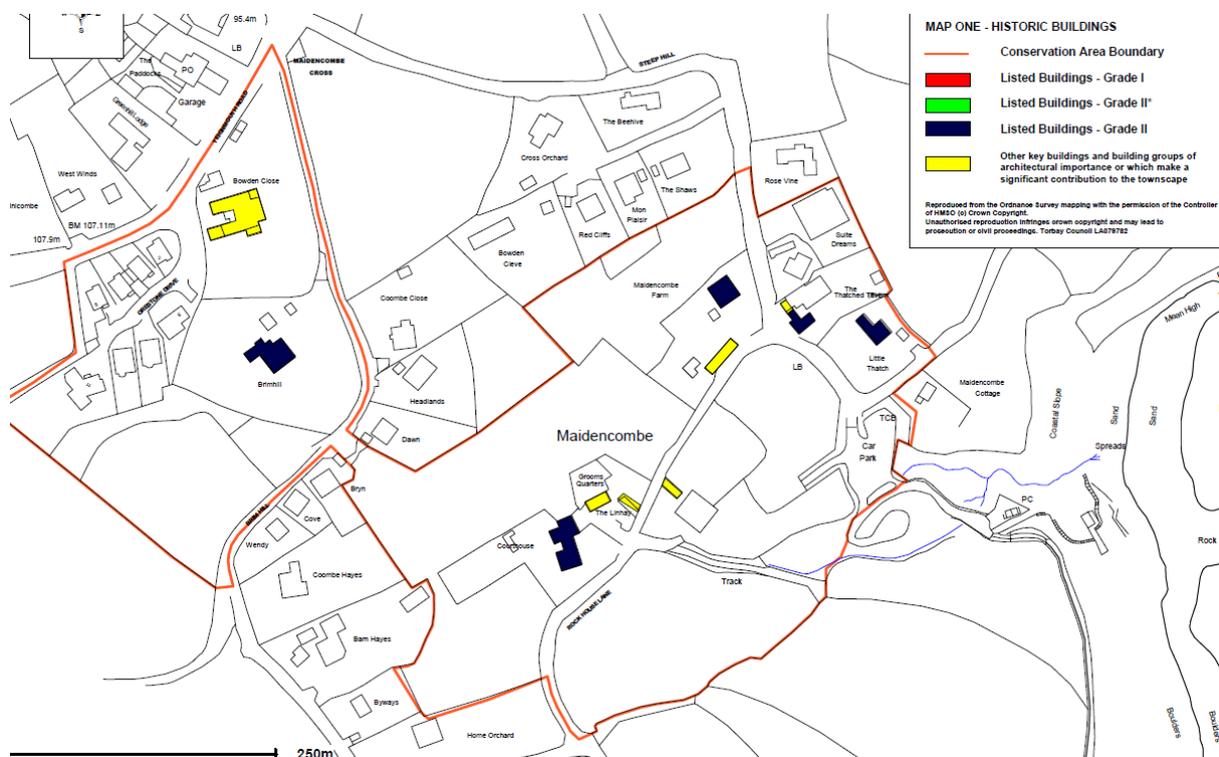
As noted above the proposals are substantially the same as proposals approved in 2016 and 2018. Officers consider that the amount of glazing proposed in the current proposals is substantially the same as in these previously approved schemes and do not consider that any increase is significant to affect dark skies to the extent that a refusal is warranted.

The proposals do not propose the removal of any trees/hedgerows. The Council has previously investigated complaints that trees/hedgerows have been removed at the site without authorisation. Torbay Council's arboriculture officer visited the site in response to complaints made about unlawful felling in October 2020 and confirmed that Two Cypress trees and a single Ash tree had been removed from an area between the south of the property and the site boundary. The Council's arboriculture officer was able to verify (by

counting rings in the stumps) that these trees had been planted around 2000 and were not protected by the area wide Tree Preservation Order introduced to cover the site on 11/09/1986 (only trees planted before this date are protected). As such Council is satisfied that no unauthorised felling has taken place.

Officers do not believe that the proposals materially affect the setting of any listed building. Grade II listed buildings are site to the north west (Brimhill) and south east (the Courthouse). There are three other listed buildings towards the centre of Maidencombe village. However these are all significant distances from the site. Brimhill is some 45m distant and is not visible from the site. The Court house sits at the bottom of the hill below the site but is some 90m distant. Officers therefore consider that the proposals do not affect the setting of listed buildings.

The Maidencombe Conservation Area boundary skirts the site on three sides so as to exclude not only Dawn, but also Headlands and Combe Close to the north east. To the south west Bryn, Cove and Wendy are also fall outside of the conservation area boundary



Officers have considered whether the proposals would detract from the character of the conservation area but consider that they would not lead to unacceptable harm.

The proposals are therefore considered to be in accordance with Policies SS8, SS9 and SS10.

## 5. Climate change

Policy SS14 of the Local Plan states that development should be resilient to the local climate commensurate to the use of the proposal and should avoid responses to climate impacts which lead to increases in energy use and greenhouse gas emissions.

The applicant has stated that the proposals will reduce the carbon footprint of the house through the use of triple glazed sliding doors to reduce heat loss and carbon emissions, rather than the bifold doors as approved under P/2016/0471.

It is considered that this approach demonstrates a proportionate response to the minimisation of carbon emissions at the site.

The proposal is therefore considered to be in accordance with Policy SS14.

### **Policies for managing change and development in Torbay**

#### **6. Parking**

Policy TA3 (Parking requirements) and Appendix F of the Local Plan states that residential dwellings should be served by two parking spaces and an additional space is required for each two additional bedrooms added by proposals. Policy TH9 of the Torquay neighbourhood Plan states that all housing developments must meet the guideline parking requirements contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking arising from the development or, the development is within the town centre and an easy walk of a public car park which will be available to residents for the foreseeable future.

The proposals would add a fourth bedroom to the three existing bedrooms. No additional parking provision is therefore required. There is space for at least two parked cars at the site (including the garaged space)

The proposals are therefore considered to be in accordance with Policies TA3 and TH9.

#### **7. Countryside, coast and greenspace**

Policy C1 (Countryside and the rural economy) of the Local Plan states that development in the open countryside away from existing settlements will be resisted where this would lead to the loss of open countryside or creation of urban sprawl and that development within villages will only be permitted where they are of an appropriate modest scale. Policy C2 (The coastal landscape) states that the Council will preserve the character of the undeveloped coast and that development in this area will only be permitted where it maintains the unspoilt character of the coastline and coastal landscape. Policy C4 (Trees, hedgerows and natural landscape features) of the Local Plan states that development will not be permitted where it would harm veteran or protected trees.

Objections have been made that the proposals are contrary to the Policies above. Reasons include that the proposals would not be of a modest scale, would not preserve the special character of Maidencombe and would create more light pollution. Also that they would have an adverse visual impact as well as “removal of trees and hedgerows”.

Officers have considered the proposals in relation to these policies and consider that they are of an appropriate modest scale relative to the Maidencombe village boundary. The site is within the mapped area of undeveloped coast in the Local Plan and is approximately 385m from the coastline and 340m from the South West coast path. Officers consider that given the distance of the site from the coastline and their relatively modest scale the proposals are unlikely to detract from the character of the coastline or coastal landscape such that a refusal is warranted. As mentioned above, the proposals do not propose the removal of any trees/hedgerows. The Council has previously investigated complaints that trees/hedgerows

have been removed at the site without authorisation and has opted not to take enforcement action having concluded that no unauthorised felling has taken place.

The proposals are therefore considered to be in accordance with Policies C1, C2 and C4.

### **8. Nature conservation**

Policy NC1 (Biodiversity and geodiversity) of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale. Policy TE5 (Protected species habitats and biodiversity) of the Torquay Neighbourhood Plan state that the development of new homes, or a new commercial property or business premises of any class on an unallocated site that could have an impact on a protected species or habitat must provide an assessment of impacts upon any protected species or habitats.

Objections have been made that the preliminary ecological survey submitted with the application was deficient and out of date and that the proposals involve “hedgerow removal”.

The applicant has since provided an updated preliminary ecological survey report dated 2021 together with previous reports carried out in 2016 and 2018 and 2020.

Report findings identify that there was evidence (bat droppings) of the occasional use of the roof void as a non breeding day roost by one common Pipistrelle Bat and also identified that the site is within a Landscape connectivity Zone within the South Hams Special Area of Conservation for Greater Horseshoe bats. (No evidence of nesting birds was found).

The report makes a number of recommendations including mitigation measures for bats.

Officers consider that the submitted information is adequate and that the recommendations and measures set out within it represents a proportionate response to the issues identified.

As mentioned above, the proposals do not proposes the removal of any trees/hedgerows. The Council has previously investigated complaints that trees/hedgerows have been removed at the site without authorisation and has opted not to take enforcement action having concluded that no unauthorised felling has taken place.

The proposals are therefore considered to be in accordance with Policies NC1 and TE5.

### **9. Historic environment**

Policy HE1 (Listed buildings) states that development proposals should have special regard to the desirability of preserving any listed building and its setting. Policy TH10 (Protection of the historic built environment) of the Torquay Neighbourhood Plan states that alterations to listed buildings will be supported where they safeguard and enhance their historic qualities.

Objections have been made that the proposals are contrary to these policies as they would have adverse effect on the setting of Grade II listed buildings.

As noted above, officers do not believe that the proposals affect the setting of any listed building such that refusal is warranted. Grade II listed buildings are sited to the north west (Brimhill) and south east (the Courthouse). There are three other listed buildings towards the centre of Maidencombe village. However these are all significant distances from the site. Brimhill is some 45m distant and is not visible from the site. The Court house sits at the

bottom of the hill below the site but is some 90m distant. Officers therefore consider that the proposals do not materially affect the setting of listed buildings.

The site itself is not a listed building.

The proposals are therefore considered to be in accordance with Policies HE1 and TH10.

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

## **10. Design and development**

Policy DE1 (Design) 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 DE3 (Development amenity) of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. Policy DE4 (Building heights) of the Local Plan states that the height of new buildings should be appropriate to the location, historic character and the setting of development. Policy DE5 (Domestic extensions) of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy TH8 (established architecture) of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

Objections have been made that the proposals are contrary to these policies – see summary above and objections on file for reasons. Reasons include that the proposals would create a very large building across four levels, with terraces at three levels (roof, upper ground floor and lower ground floor) out of character with the local area and neighbouring properties. Also that it would be over-dominant. Objections have also been made that the proposals would overlook neighbouring properties, be overbearing, and lead to light pollution. Also that a decision to grant planning permission would be inconsistent with the treatment of other proposed developments in the vicinity of the site and would create a precedent for further inappropriate development.

Objections have also been made about the veracity of the submitted plans and about the legitimacy of a proposed “fall back” scheme that the applicant has asserted could be built without planning permission under the provisions of the General Permitted Development Order 2015 (as amended).

### Submitted plans

Objections have been made about perceived inaccuracies between submitted plans, lack of detail of floor levels and a notation present on all plans which previously read “Do not scale from this drawing”. The applicant has confirmed that the submitted plans are to scale and has removed the notation above. Floor level details have been added. Officers are satisfied that plans are accurate. Proposed section drawings supplied by the applicant also confirm

that the proposed loft conversion and raised roof ridge would provide adequate internal floor to ceiling height.

#### Fall back position

The applicant has provided details of a “fall back” scheme, incorporating side extensions, a rear extension a front porch and a rear outbuilding that he argues could be implemented as permitted development. Officers have not assessed whether or not this scheme would constitute permitted development, although it is clear that fairly significant works could be carried out under permitted development rights.

The property benefits from permitted development rights.

#### Visual appearance

Officers consider that the proposals are acceptable in relation to their visual appearance.

The proposals do not include four stories as referred to in some objections. At the front the proposals would maintain the appearance of a single storey bungalow. At the rear the proposals would remain two stories in height. The roof would be converted into a bedroom with a small inset balcony but, besides from the addition of the proposed two storey side extension, the appearance of the rear elevation would otherwise remain largely unchanged. As noted above (Description of proposals) there is already a terrace across the full width of the main dwelling at upper ground floor level. The proposals would involve extending this across the proposed side extension and filling in the gap under the existing terrace with a 1.4m deep extension to the existing lower ground floor. As the ground slopes down steeply from the rear of the main dwelling the existing decking to be replaced is approximately 2m above ground level at the rear. In an earlier iteration of the plans the applicant intended to use the space under the decking as a store. However the plans have since been amended to remove this store and show the gap between the decking and the ground boarded up with vertical timber boards approximately 2m high.

As noted above the proposals are substantially the same as those granted planning permission in 2016 and 2018.

Officers consider that the proposals would be subservient to the main dwelling without detracting from the existing street scene. It should be noted in this respect that ground levels mean that the proposed single storey extension at the rear is unlikely to be visible from outside the front of the property and that the proposed two storey side extension is unlikely to feature prominently due to differences in levels. Officers consider that the proposed rise in the roof ridgeline is acceptable and that the size of the plot means that the proposals would not represent overdevelopment.

#### Amenity

Officers have considered the issue of neighbour amenity and consider that the proposals would not lead to significant overlooking, overshadowing, loss of light or light pollution such that planning permission should be refused. Openings in the side of the proposed side extension facing Bryn would be obscure glazed at first floor level. Officers consider that the distance from the site to Bryn, in the region of 24m, means that the proposals would not be unacceptably overbearing. The distance from the site to Headlands, in the region of 20m, is considered to be sufficiently distant such that no significant overlooking would occur in this direction either. Properties to the south east at the bottom of the hill are considered to be sufficiently distant such that no amenity issues are likely to arise. Officers have considered

the issue of light pollution. The property is already heavily glazed to the rear at upper and lower ground floor levels and officers consider that the proposed increase in glazing is unlikely to lead to any significant increase in light spillage from the property.

#### Precedent and other applications

Each application is considered on its merits and officers do not consider that an approval would set a precedent for any future development proposals. Officers do not consider that it is appropriate to compare previous decisions to refuse planning permission for proposals at nearby sites with the proposals under consideration.

Given the siting, scale, and design of the proposal it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality or neighbour amenity.

The proposal is therefore considered to be in accordance with Policies DE1, DE3, DE4, DE5 and TH8.

#### **10. Environmental resources**

Policy ER1 (Flood risk) of the Local Plan states that proposals should maintain or enhance the prevailing water flow regime on-site, including an allowance for climate change, and ensure the risk of flooding is not increased elsewhere. Policy ER2 (Water management) of the Local Plan states that all development should seek to minimise the generation of increased run-off having regard to the drainage hierarchy. Policy ER4 (Ground stability) of the Local Plan states that appropriate investigations will need to be agreed with the Council where identified or suspected ground instability presents a risk to public health and safety, buildings, structures or the natural environment.

Objections have been made that the proposals would lead to increased surface water run off with the potential to affect foundations of properties further down the hill and the operation of their septic tanks. Also that there is potential for ground instability due to the steep sloping nature of the site.

The site is not within the critical drainage area for Torbay. However the applicant has submitted a flood risk assessment identifying that sustainable drainage systems will be used and a condition to this effect will be added.

There is no evidence of ground instability presenting a risk to public health.

The proposal is therefore considered to be in accordance with Policies ER1, ER2 and ER4.

#### **11. Special protection for rural village environments**

Policy TH11 (Rural village conservation areas) of the Torquay Neighbourhood Plan states that:

*“Within the Maidencombe and Cockington Village designated Conservation Areas, subject to other policies in this Plan, development proposals consisting of sensitive conversions, extensions and alterations will be supported where this would protect or enhance the character and setting of the designated Conservation Area and also have regard to the significance of existing open spaces in terms of their contribution to the Conservation Area”.*

Policy TH12 (Maidencombe area) of the Torquay Neighbourhood Plan states that:

*“Any proposal for development within Maidencombe Village Envelope must demonstrate that it respects local character and it conserves or enhances heritage and landscape assets where it might impact on those assets.*

*To achieve this, any development must be of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes.*

*Designs and construction materials must draw from and be in keeping with local features and design characteristics and be appropriate in relation to its landscape sensitivity.*

*Development must take into account the value of the rural landscape and comply with the Local Plan policies in the designated Countryside Area (C1) and Undeveloped Coast (C2). Major developments in C1 countryside, outside the Village Envelope, will not be supported and any green-field development will be resisted unless it is compatible with the rural character and setting and it fits within the constraints of the existing landscape and visual character of the area”.*

Objections have been made that the proposals are contrary to these policies. Reasons include that the proposals would have an adverse impact on the Maidencombe Conservation Area, would be out of keeping with the local area (scale, height, footprint location, massing) and would not conserve or enhance heritage and landscape assets.

Policy TH11 applies to development “within the .. Conservation Area”. The site is outside the boundary to the Conservation Area. Officers nevertheless consider that the proposals represent sensitive extensions.

Policy TH12 refers to the need for proposals to conserve or enhance heritage and landscape assets where they might impact on those assets. However in this case officers do not consider that the proposals impact on heritage/landscape assets and nevertheless consider that the proposals are *“of a scale, height, footprint, location and massing in keeping with its built surroundings and the overall physical characteristics within the Village Envelope; and to protect the amenity of existing homes”.*

It should be noted in this respect that whilst the Maidencombe village includes 5 Grade II listed buildings the vast majority of buildings carry no heritage designation and are comparatively modern in character. As set out above under “Design and development”, officers do not consider that the proposals would detract significantly from neighbour amenity. The proposal would make use of local limestone from Stoneycombe quarry. Officers consider that the proposals accord with policies C1 and C2.

The proposal is therefore considered to be in accordance with Policies TH11 and TH12.

### **Local Finance Considerations**

#### **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:  
Not applicable.

### **Planning Balance**

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development and it is in accordance with the Development Plan, including the Torquay Neighbourhood Plan.

It is noted that many of the objections refer to the proposal being contrary to a number of Development Plan policies. Many of these policy assessments require subjective interpretation however. Following a detailed assessment of the scheme Officer opinion is that the proposal does not conflict with the development plan

As such it is concluded that the planning balance is in favour of supporting this proposal.

### **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 and Reasons for Decision**

The proposal is: acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; and would provide acceptable arrangements in relation to access and parking, flood risk, and ecology. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below and subject also to no new material planning considerations being raised within the remaining consultation period. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning, Housing and Climate Emergency.

### **Conditions**

1. The extensions hereby approved shall be constructed in accordance with the Materials Schedule drawing 586-M1 dated 20/04/16 and the Stone facing wall specification drawing 586-M2 dated 23/07/18. The natural stone walls shall be constructed from stone laid on its natural bed in a sand/lime mortar. Development shall be carried out in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policy DE1 and SS10 of the Torbay Local Plan 2012-2030.

2. The two upper ground floor windows (utility and W/C) on the south west facing side elevation facing Bryn, Brim Hill, and the south west facing lower ground floor en-suite window also facing Bryn, Brim Hill shall be fitted with obscure glazing to a level at least equivalent to

Pilkington Level 3 and fixed shut or fitted with a 100 mm opening restrictor. The windows shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; in accordance with the requirements of policies DE1, DE3 and DE5 of the Torbay Local Plan 2012 - 2030.

3. The upper ground floor windows (bathroom) in the side extension on the south east side of the building facing south east towards Headlands, Brim Hill and north east shall be fitted with obscure glazing to a level at least equivalent to Pilkington Level 3 and fixed shut or fitted with a 100 mm opening restrictor. The windows shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; in accordance with the requirements of policies DE1, DE3 and DE5 of the Torbay Local Plan 2012 - 2030.

4. Before the first use of the upper ground floor terrace hereby permitted the obscure glazed privacy screen shown on the approved plans in the south west elevation facing Bryn, Brim Hill shall be installed to a height of 1.7m to at least the equivalent of Pilkington Level 3. The privacy screen shall be permanently retained in that condition thereafter.

Reason: To protect residential amenity and the privacy of neighbouring properties; and in accordance with the requirements of policies DE1, DE3 and DE5 of the Torbay Local Plan 2012-2030.

5. In accordance with the submitted flood risk assessment received 20/10/20, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to the commencement of development.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with saved Policy ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF.

6. No destructive works are to be carried out to the roof between 1<sup>st</sup> June and 31<sup>st</sup> August of any year.

Reason: For the protection of legally protected bats and in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the advice contained within the NPPF.

7. The development hereby approved shall be carried out in strict accordance with the recommendations set out in the approved ecology reports: Bat Survey Mitigation & Compensation Report # 9620/GLE dated October 2020 and Preliminary Ecological Appraisal Update of Report 08715/GLE dated February 2021. Which shall include:

- On the day which work will commence on the roof; all site operatives will be informed about the legislation which protects bats, how the property is being used by bats, how the work shall proceed with regards to bats and what to do in the event that bats are discovered during the work.
- Prior to work commencing a thorough inspection of the roof void and other external features will be carried out by a licenced and suitably qualified ecologist; if any bats are discovered they will be safely removed by gloved hand and put into the bat box previously installed.
- A licensed bat worker will be in attendance during the stripping of the roof, which will be soft stripped by hand.

Reason: For the protection of legally protected bats and in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the advice contained within the NPPF.

8. Prior to the first occupation of the development hereby approved, in-line with the recommendations of the approved Bat Activity/Emergence Survey Mitigation & Compensation report dated July 2016, the bat roosting opportunities shown on the ecology mitigation plan reference: 589-EC1(B) will be provided. These enhancements shall include:

- 15-20mm gaps will be created between the fascia board and the external wall with a south westerly aspect. An internal wall will prevent bats from entering the roof void whilst allowing them access to the top of the wall. It is imperative that bats are prevented from coming in to contact with modern breathable roof membrane which becomes lethal to them over time as they become entangled in its fibres.
- Two voids with access gaps into wall cavities will be incorporated into a south facing and north easterly facing wall.
- Two Schwegler 1FR bat tubes will be incorporated into the walls in two locations, one to face south and west.
- Two gaps in the stone work to allow crevice dwelling bats to inhabit the stone wall.

The approved enhancements shall thereafter be retained for the life of the development unless otherwise agreed in writing with the Local Planning Authority.

Reason: To secure enhancements for legally protected bats in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and the advice contained within the NPPF.

9. External lighting shall be installed in strict accordance with the approved lighting plan (plan reference: 589-05B dated 16/10/20) and lighting specification (drawing 589/M3, dated 23/07/18). No additional external lighting shall be installed on, or in association with, the building except for low-intensity, PIR motion-activated lights on a short timer (maximum 1 minute), sensitive to large objects only (to avoid triggering by bats or other wildlife). Any lights should be mounted at a height no greater than 1.9m from ground level, directed/cowled downward and away from the site hedges and trees. The lights should produce only narrow spectrum, low intensity light output, UV-free, with a warm colour-temperature (2,700K or less) and a wavelength of 550nm or more.

Reason: For the protection of legally protected bats and in accordance with Policy NC1 of the Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the advice contained within the NPPF.

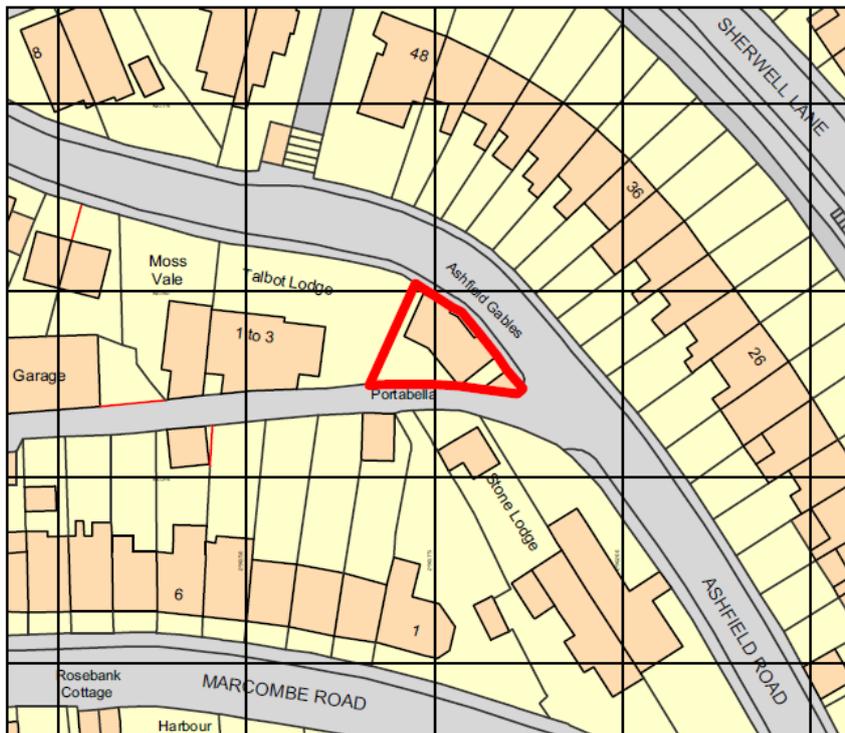
**Development Plan Relevant Policies**

SS1 Growth Strategy for a prosperous Torbay  
SS3 Presumption in favour of sustainable development  
SS8 Natural Environment  
SS9 Green infrastructure  
SS10 Conservation and the historic environment  
TA3 Parking requirements  
C1 Countryside and the rural economy  
C2 The coastal landscape  
C4 Trees, hedgerows and natural landscape features  
NC1 Biodiversity and geodiversity  
HE1 Listed buildings  
DE1 Design  
DE3 Development amenity  
DE4 Building heights  
DE5 Domestic extensions  
ER1 Flood risk  
ER2 Water management  
ER4 Ground stability  
TS1 Sustainable development  
TH8 Established architecture  
TH9 Parking facilities  
TH10 Protection of the historic built environment  
TH11 Rural village conservation area  
TH12 Maidencombe area  
TE5 protected species and habitats

## TORBAY COUNCIL

Application Site Address	Ashfield Gables Ashfield Road Torquay TQ2 6HE
Proposal	Installation of a window and a door.
Application Number	P/2021/0460
Applicant	Mr Rob Finch – Torvista Homes Ltd
Agent	Mr Jonathan Ling-Cotley – MTA Chartered Architects Ltd
Date Application Valid	23/04/2021
Decision Due date	18/06/2021
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director responsible for Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from neighbours, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Emily Elliott

### Location Plan:



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### **Site Details**

The site is a two storey detached residential property with an integral garage located on Ashfield Road, with a private service lane that lies to the south of the site. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

### **Description of Development**

The proposal seeks permission for the insertion of a window on the northern elevation at ground floor to serve an en-suite, as well as the insertion of a door to the south-eastern elevation to serve the existing garage. The proposal also includes a number of internal alterations, however internal alterations to this site do not require planning permission.

### **Pre-Application Enquiry**

None sought.

### **Relevant Planning Policy Context**

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

### **Development Plan**

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

### **Material Considerations**

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

### **Relevant Planning History**

P/2021/0404: Certificate of Lawfulness for proposed change of use from C3 (Dwellinghouse) to C4 (HMO). Pending consideration.

P/2008/0025: Alterations; First Floor Bedroom And Ground Floor Garage Extension. Approved 22/02/2008.

P/2004/1335: Erection Of Dwelling With Garage And Vehicular/ Pedestrian Access (Revised Scheme). Approved 15/12/2004.

## **Summary of Representations**

The application was publicised through neighbour notification letters. Approximately 14 letters of objection have been received, it should be noted that this number reflects 12 objectors as some have made more than one objection.

Concerns raised include:

- Planning history
- Overdevelopment
- Not in keeping with local area
- Privacy/overlooking
- Residential amenity
- Sets precedent
- Impact on local area
- Noise
- Traffic and access

## **Summary of Consultation Responses**

### **Torquay Neighbourhood Forum:**

No comments received.

## **Planning Officer Assessment**

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

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Impact on Flood Risk and Drainage

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

The proposal is for the insertion of a window on the northern elevation at ground floor to serve an en-suite, as well as the insertion of a door to the south-eastern elevation to serve the existing garage. In the context of householder development within the built up area there are no Development Plan policies indicating that the proposal is not acceptable in principle. It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

A number of objectors have raised concerns regarding the planning history of the site and the potential use of the site. It should be noted that the site is also subject of a certificate of lawfulness for proposed use which is separate to this application.

The proposed development requires planning permission, as the original planning permission for the dwelling removed permitted development rights for all types of development described in Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order, 2015 (as amended).

## **2. Impact on Visual Character**

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

The proposal seeks permission for the insertion of a window on the northern elevation at ground floor to serve an en-suite, as well as the insertion of a door to the south-eastern elevation to serve the existing garage.

Objectors have raised concerns that the proposal would have a negative impact on the local area, would not be in keeping with the local area, would set a precedent and constitute overdevelopment.

Officers consider that these very minor changes to the external appearance of the dwelling will have no significant adverse impact on the appearance of the dwelling or the street scene. A planning condition is proposed to ensure that the proposal matches the materials used in the existing windows. It is considered that the proposal is acceptable with regards to its impact on the character and appearance of the existing dwelling and streetscene.

The proposal is considered to be in accordance with Policy DE1 of the Local Plan, and Policy TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

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

Paragraph 127 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development should not unacceptably impact upon the amenities of neighbouring occupiers in terms of their outlook, privacy, or access to natural light.

Objectors have raised concerns regarding residential amenity, in particular noise and privacy/overlooking. The proposal is for a window to serve the ground floor en-suite, which will be conditioned to be obscurely glazed to protect the privacy of the occupiers. The proposal also includes the insertion of a door to serve the existing garage. It is deemed that the proposal would not result in any notable increase in overlooking of neighbouring properties than the existing situation.

The proposal is not considered to result in any serious detriment to amenities of neighbours by loss of privacy, outlook or access to natural light and therefore the proposed alterations are considered acceptable given the context. The proposal is considered to comply with Policy DE3 of the Local Plan.

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

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

The site is located within the Critical Drainage Area and the application has been accompanied by a flood risk assessment. As the proposed development would not result in an increase in the impermeable area on the site, the proposal is deemed acceptable in terms of its impact on surface water flooding. Given the nature of the proposal, the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

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

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

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

#### **Local Finance Considerations**

S106: Not applicable.

CIL: Not applicable.

### **EIA/HRA**

ERA: Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA: Not applicable.

### **Planning Balance**

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development and it is in accordance with the Development Plan, including the Torquay Neighbourhood Plan. As such it is concluded that the planning balance is in favour of supporting this proposal.

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

The proposal is acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; and would provide acceptable arrangements in relation to flood risk. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director for Planning, Housing and Climate Emergency.

### **Conditions**

#### **Materials**

The external appearance of the new window and door hereby approved shall match those of the host dwelling, and shall be retained as such for the life of the development.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan 2012-2030.

#### **Obscure Glazing**

The new window hereby approved on the ground floor, northern flank elevation shall be fitted with obscure glazing to Pilkington level 4, or an equivalent standard. The window shall thereafter be permanently retained in that condition for the lifetime of the development.

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

**Informative(s)**

1. 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.

**Relevant Policies**

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

SS3 – Presumption In Favour Of Sustainable Development

SS14 – Low Carbon Development and Adaptation to Climate Change

TH8 – Established Architecture

## TORBAY COUNCIL

Application Site Address	Cherry Trees 142 Newton Road Torquay TQ2 7AD
Proposal	Alterations and extensions to existing dwelling to form five residential flats. Alterations include the formation of a two storey side extension over existing garage, the enlargement of a rear dormer (revised plans received on 14.04.2021)
Application Number	P/2020/0866
Applicant	Mr Maddock
Agent	Box Architecture
Date Application Valid	28.09.2020
Decision Due date	23.11.2020
Extension of Time Date	21.12.2020 an extension of the determination period until 18 <sup>th</sup> June 2021 has been agreed
Recommendation	<p>Approval subject to:</p> <ol style="list-style-type: none"> <li>1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency.</li> </ol> <p>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 Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Councillors requested consideration by Committee as a result of objections received over the height of the building, proximity to the boundaries and loss of light.
Planning Case Officer	June Pagdin

## Site Location Plan



### **Site Details**

The site comprises a two-storey, semi-detached dwelling house and its curtilage on the south side of Newton Road. It is in a pair with No 140 to the south east. The house has a deep front garden and a garage on the boundary with No 144. There is a mature tree on the footway adjacent to the existing vehicle access from Newton Road.

The property to the north-west at No 144 Newton Road is also a semi-detached house (in a pair with No 146). The house is set in from the shared boundary by some distance (approx. 10m); while a side conservatory is set in 6m and the garage is adjacent to the shared boundary. A previous planning permission was granted to extend the house to the side (P/2019/1138).

The application property has been previously extended with a side and a rear dormer in the roof and a single storey rear extension. The property has a rear garden;

varying in depth between approximately 4m and 7m) which backs onto the rear of residential properties at No. 17 Cadewell Crescent.

No 17 Cadewell Crescent is also a two-storey, semi-detached house. It is positioned on the bend of the Crescent and the house is set at 45 degrees to No 142 Newton Road. The rear garden is triangular in shape and approximately 7m deep at ground floor; the upper rooms are approximately 3m further back. It is on slightly higher land than No 142 Newton Road

Newton Road is an established residential area with surrounding properties having similar character and appearance. The neighbouring property was been converted from a guest house to four flats (Ref No P/2017/1034). There is a mix of residential and commercial uses on the far side of Newton Road and further south on the application side.

### **Description of Development**

Full planning permission is sought for extension and subdivision of the property. During the course of the application the proposal has been amended and now involves:

- A two-storey side extension to the north-western side of the property (in place of the garage) with a half-hipped roof
- Enlarging the rear dormer extension in the roof
- Hip to gable widening of roof ridge line on original house
- Alterations internally to subdivide building into five flats (4 x1 bed, 1 x 2 bed)
- Installation of five roof-lights in the roof and two windows in the rear dormer
- Creation of 6 car parking spaces and refuse storage area in front garden
- Provision of amenity space to the flats.

The proposal would be finished with white render to the ground floor of the extension to match the existing house and cement boarding to the first floor of the side extension and the dormer window. The existing red roof tiles would be changed to grey concrete tiles. Proposed new windows would be upvc (colour to be agreed).

The built form would be as approved under planning application reference number P/2019/1138 for a two storey extension and subdivision into one maisonette at first and second floors and an ancillary ground floor annexe.

### **Pre-Application Enquiry**

None.

### **Relevant Planning Policy Context**

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")

- The Torquay Neighbourhood Plan ("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/2011/0527 – Formation of single storey extension at rear. Approved 04.07.2011.

P/2011/0953 - Non material amendment - removal of dormer/chiquette over the new rear entrance door at the NW elevation; insertion of 2 roof lights in new roof SE and NW elevations; removal of high level window at SE elevation – Approved 4.10.2011.

P/2019/1138 - Formation of 2 storey extension to side over existing garage, dormer to rear (amended plans received). Approved 22.06.2020.

#### **Summary of Representations**

Approximately 5 objections were received to the original proposal in which the following matters were raised:

- The intensification of use would result in up to ten people living in five tiny flats;
- Overdevelopment - cramming in front garden of car parking and bins;
- Inadequate size of outdoor space provision;
- Loss of privacy due to overlooking of neighbours to rear and side – especially the bi-fold doors to first floor lounge;
- Loss of natural light;
- Noise from future occupiers;
- Future maintenance of building would require access to land at No 144 Newton Road.

One neutral comment was received:

- requesting better sound insulation between flats. Currently not adequate for so many people in one building.

Sound insulation between flats is a Building Regulations matter and not a material planning consideration.

Neighbouring occupiers were consulted on the amended scheme and four responses were received. The following comments were made:

- Overdevelopment;
- Too close to neighbouring properties;
- Loss of privacy due to overlooking;
- Loss of light to neighbouring properties;
- Inadequate amenity spaces;

- Inadequate parking layout;
- Dust and noise during construction.

## **Summary of Consultation Responses**

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

Objection. Concern at conversions of large properties in to small poor quality living spaces without access to outside space. A key principle of Torquay Neighbourhood Plan requires new housing developments to include adequate outdoor space, such as a front or back gardens or balconies. Policy THW4 (outside space provision) requires flats or apartments to have either a balcony of not less than 10 sqm and as appropriate to the size of the home or a communal green area of not less than 10 sqm per unit within the curtilage of the property. Where there are compelling opportunities to enhance nearby spaces that can be served by the new development, in lieu of providing sufficient open space within the development site, this will be considered on its individual merits on a case-by-case basis.

### **Highways**

No objection.

### **Arboriculture**

Further information will be required on the proposed make-up of the driveway and how the electric charging point is going to be serviced. A permit will be needed for excavation works near roots of the Council-owned street tree for EV cabling.

### **Community Safety**

No objection subject to condition requiring a Construction Management Plan.

## **Planning Officer Assessment**

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

1. Principle of development
2. Visual Impact
3. Impact on Residential Amenity
4. Impact on Highways
5. Flood Risk and Drainage
6. Ecology and Arboriculture
7. Statement on Human Rights and Equalities Issues
8. Local Finance Considerations

#### **1. Principle of development**

Full planning permission is sought for alterations and extensions to the house and subdivision into five flats.

Policy H1 of the Local Plan states that proposals for new homes within the built up area will be supported subject to consistency with other Policies and that proposals

for new homes on unallocated sites will be assessed according to a range of criteria proportionate to the scale of the proposals including the capacity of physical infrastructure, including highways to accommodate development. The Council cannot demonstrate a 3 year housing land supply. The site is within the built up area and would retain residential use, providing four additional self-contained units. It would help to address the need to provide homes and would not detract from housing delivery. Therefore, in principle, the proposals are considered to be in accordance with Policy H1.

## **2. Visual Impact**

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'. Paragraph 130 of the NPPF 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 DE5 of the Local Plan states that domestic extensions will be assessed against their impact on the character or appearance of the original property, neighbouring properties, and the street scene. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The visual impact of the proposed extensions was assessed under the previous Planning Application (reference number P/2019/1138) and found to be acceptable in the context. The proposed two-storey side extension would extend above an existing garage and maintain the existing distance from the boundary treatment of approximately 0.6 metres. The proposed extension has a Dutch hip roof which is set down from the ridge of the original property and is set back from the principal elevation of the original property. The side extension would be finished in render at ground floor and cladding at first floor. The colour of the roof tiles is grey but the colour of the cladding is to be determined.

The design and appearance of the proposed extension takes reference from the properties within the surrounding street scene and the proposed extension is considered to be of a size, scale and design that is acceptable given the building's set back from the site frontage and style, reflecting other extensions within the street scene. Given the character of the surrounding area, and the proposal's siting, scale, and design. It is considered that the development would not result in unacceptable harm to the character or visual amenities of the locality.

Subject to a condition to secure the use of suitable materials, the proposal is considered to be in accordance with Policies DE1 and DE5 of the Local Plan, Policy TH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

### 3. Impact on Residential Amenity

Paragraph 127 of the NPPF requires developments to create places that promote a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development should strike an appropriate balance between making good use of land whilst avoiding town cramming or harm to neighbour's amenities. Residential proposals should provide a good level of amenity for future residents and should not unduly impact upon the amenity of neighbouring properties and surrounding uses.

#### Future occupiers

Policy DE3 requires new residential developments to provide adequate amenity for the future occupiers. The internal space standards are set out in Table 23 of the Local Plan.

The proposed flats would provide sufficient space to meet the standards for the submitted number of occupants.

Flat No	Flat type	Required Space IGA (Table 23 TLP)	Floor space proposed (IGA)
1	2 bedroom 3 person	61	61
2	1 bedroom 1 person	37	39
3	1 bedroom 1 person	37	45
4	1 bedroom 1 person	37	39
5	1 bedroom 1 person	37	46 (full height)

The building would accommodate up to seven people in five households.

Adequate day-lighting to internal spaces would be provided. Amended plans show the side windows of Flat No 4 have been removed from the proposal and the layout amended to ensure adequate daylight to habitable rooms.

The external communal amenity area measures 61sqm (excluding the bicycle stores). This provides for the minimum required under Policy THW4 of the Torquay Neighbourhood Plan 2019 of 10sqm per unit. Amended plans show discreet areas allocated to the two ground floor flats and a shared area for the upper flats to provide 10sqm per flat. Access to the bicycle stores is separate from these areas.

The arrangement of the space has been amended to avoid communal access to the areas directly outside the living room windows and doors and a bedroom window of Flats 1 and 2 in order to provide some protection of privacy of those internal spaces.

The front bedrooms of Flats No 1 and 2 have windows onto the car parking area at the front of the site. Amended plans show planters and separation from the parking area and allocation of the two parking spaces closest to the house to the occupiers of those flats in order to protect the amenity of those occupiers with regard to noise and light nuisance from car parking manoeuvres.

The amended scheme addresses earlier concerns over the levels of amenity for future occupants and is considered to be in accordance with Policy DE3 of the Torbay Local Plan and THW4 of the Torquay Neighbourhood Plan and paragraph 127 of the NPPF.

#### Neighbouring occupiers

While the proposed side extension would bring two-storey development closer to the shared boundary with No.144 the previously submitted day and sun-lighting report and Officer assessment (P/2019/1138) concluded that the proposal would not result in an unacceptably overbearing impact or overshadowing.

The amended scheme removes the original proposal for a full-length first floor window with Juliet balcony on the rear elevation of the proposed two-storey side extension and replaces it with a normal sill height (1.2m). The potential for overlooking was carefully assessed in the previous proposal (2019/1138) where this window was shown as serving a bedroom. Under the current proposal this window would also serve a bedroom as the floor plan to Flat 4 has been revised in amended plans.

The layout of this residential area is such that relationships between neighbouring properties are already characterised by some level of overlooking towards neighbouring gardens and inter-visibility between rear elevations. The ground floor of the rear elevation of No 17 Cadewell Crescent would be approximately 14m away. The distance between first floor windows would be approximately 17m. The building at No 17 is set at a 45 degree angle to No 142 Newton Road. The initial proposal or a Juliet balcony to a lounge at first floor level would have resulted in a considerable increase in the amount of overlooking throughout the day and evenings compared to a bedroom window. The revised scheme addresses this issue of overlooking and loss of privacy by reducing the size of window and amending the flat layout so that this window would serve a bedroom and the living/dining/kitchen area would be at the front of the property. The resulting degree of overlooking would not be increased significantly over and above the previously approved application (P/2019/1138).

Amended plans omit the kitchen window for Flat 4 that faced north from the side boundary facing No 144 Newton Road and would have allowed views over the side and rear amenity spaces of that neighbour. This amendment addresses concerns of overlooking to the side over the property at No 144 Newton Road.

All other new windows and doors would face towards the street or be sited at ground floor level where they would not result in any unacceptable impact on privacy, with due regard to the existing boundary treatment.

The amended scheme is considered to adequately address previous concerns of overlooking such that the proposal would not result in a significant increase in

overlooking and consequent loss of privacy to the detriment of the amenity of the neighbouring occupiers. The proposal is not considered to result in unacceptable harm to the amenities of neighbours in terms of their outlook or access to natural light and, therefore, to be in accordance with Policy DE3 of the Local Plan and paragraph 127 of the NPPF.

#### **4. Impact on Highways**

Policy TA3 and Appendix F of the Local Plan states that each flat should be provided with 1 on-site parking space for motor vehicles, 1 on-site cycle storage space and provisions for the storage of refuse bins and recycling boxes. Policy TH9 of the Neighbourhood Plan states that the parking requirements set out in the Local Plan must be complied with, and that applications for additional residential accommodation should be assessed for their parking demand.

The subject property is currently served by a garage and a driveway at the front of the property. Consultation responses have raised concerns that car parking will be cramped in and inadequate. The proposal would remove existing landscaping at the front of the house and extend the driveway to provide six car parking spaces (1 per flat and 1 visitor space). A small planter is proposed on each side of the vehicle access point to the site. While the site layout is tight, it allows for parking spaces of an adequate size and 6m deep turning area behind the spaces, which meets the Standing Advice requirements. The Highway Authority has no objection to the proposed layout.

The Parking Standards require 20 % of the spaces to have Electric Vehicle Charging Points. One is required on this site. However, concern was expressed by the Arboricultural Officer that the cabling should not be within the root zone of the mature street tree, which is of significance in the streetscene. Provision of the EVCP and appropriate cable routing can be secured by condition on any permission.

Subject to a condition to ensure provision prior to occupation of the parking spaces and an EVCP (with cabling to avoid the street tree root zone), the proposal is considered to be in accordance with Policy TA3 of the Local Plan and Policy TH9 of the Neighbourhood Plan.

The positioning of the refuse bins on the site frontage could introduce clutter and detrimentally affect the appearance of the site frontage. However, amended plans show refuse bin stores set behind a planting area when viewed from the street. Details of the bin store appearance and the planting can be secured through conditions to ensure that adequate screening is provided and maintained.

Subject to the identified conditions the proposal is considered to be acceptable with regard to Policies TA3 and DE1 of the Local Plan.

#### **5. Flood Risk and Drainage**

Policy ER1 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 previous application was approved and due to the small footprint of the proposed extension being under 20sqm, it was not considered necessary to require a sustainable form of drainage. However, site is located within the Critical Drainage Area and the current proposal includes hardstanding areas. The submitted Flood Risk Assessment states that surface water would be discharged at a controlled rate to a combined sewer to be approved by the Water Company. However, the Standing Advice advises that a condition seeking consideration of sustainable drainage systems is reasonable in these circumstances. This condition is recommended.

## **6. Ecology**

The application is accompanied by an Ecological Impact Assessment report provided by an ecologist (October 2019). The submitted report relates that a site inspection did not reveal any evidence of use of the property by bats or nesting birds, and concluded that the proposal would not impact negatively on bats or nesting birds and no further survey is required. Issues relating to the street tree are covered in the Highways Section (section 4 above). The proposal is therefore considered to be in accordance with Policy NC1 of the Local Plan which seeks to conserve Torbay's biodiversity and geodiversity.

## **7. Low Carbon Development**

Policies SS14 and ES1 of the Local Plan seeks to promote a low carbon form of development with adaptations to climate change so as to minimise carbon emissions and the use of natural resources.

The proposal would make a contribution to housing delivery in Torbay through the conversion of an existing vacant building within the built up area in a sustainable location. Proposals for residential development within the existing built up area help meet Torbay's housing need in a manner that reduces the need for greenfield development in unsustainable locations, which increase the need for car ownership. The proposal therefore makes efficient use of existing brownfield land and infrastructure capacity.

The submitted Low Carbon Energy Statement sets out that the retention and conversion of the existing building ensures that the embodied carbon contained within the building is retained, thereby minimising the carbon emissions associated with the production of new building materials and the carrying out of construction works. The intention is to install high efficiency water heating and space heating and compliance with the standards required by the Building Regulations. In addition, the proposed installation of roof-lights contributes to passive solar heat gain during daylight hours.

The proposal is considered to be in accordance with Policies SS14 and ES1 of the Local Plan.

## **8. 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.

## **9. Local Finance Considerations**

S106: Not Applicable

CIL: A CIL liability form was not submitted with this proposal. The site falls within Charging Zone 2 (CIL Map 8). Charging Zone 2 is defined as areas outside the Policy C1 "Countryside and rural economy" area of Policy 2 "Undeveloped coast area" in the adopted Torbay Local Plan 2012-2030 that are not within Zone1 or a future Growth Area. Residential development of more than 100sqm internal floorspace that creates more than three dwellings will be liable. The proposal would create less than 100sqm additional internal space. Therefore, CIL is not liable.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a positive impact overall and help with the supply of much needed housing.

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

The proposal as amended, is considered to be acceptable in terms of the principle of the use and its, visual impact, impacts on amenities of future and neighbouring occupants and in terms of on-site provision of parking, bin storage and landscaping. Subject to conditions, the proposed development is, considered to be in accordance with the policies of the NPPF, the Local Plan and the Neighbourhood Plan.

### **Officer Recommendation**

That planning permission be granted, subject to:

The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency

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

### **Conditions**

1. No development shall take place until a site specific Construction Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust.

The plan should include, but not be limited to:

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

The development shall be implemented in accordance with the approved details.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

2. Prior to the commencement of above-ground works of the development hereby permitted, details of colour, type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the proposed development shall be submitted to and approved by the Local Planning Authority. The development shall, thereafter, be implemented in accordance with the approved details.

Reason: To ensure a satisfactory form of development in accordance with Policies DE1 and DE5 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

3. FRA Notwithstanding the submitted flood risk assessment, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement of the development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 40% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 40% allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream. The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030, and the guidance contained in the NPPF.

4. Prior to the first occupation of the development hereby permitted the amenity spaces and planters shall be provided on the site in accordance with the plans hereby approved and shall thereafter be retained for their intended use with the associated dwellings for the lifetime of the development.

Reason: In the interests of residential amenity, and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030 and Policy THW4 of the Adopted Torquay Neighbourhood Plan 2012-2030.

5. Prior to the first occupation of the development hereby permitted details of the boundary walls and fences to the site and the amenity spaces shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with approved details prior to occupation and retained in that condition thereafter.

Reason: To ensure a satisfactory completion of development and protect the privacy of future and neighbouring occupants in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

6. Prior to the first occupation of the development hereby permitted six car parking spaces shall be provided on the site in accordance with the plans hereby approved and shall thereafter be retained. The car parking spaces shall be allocated to the flats as shown on the Drawing No 5961/209/A and made available for the free use of residents of the development for their

intended use for the lifetime of the development. Notwithstanding the approved plans the surface of the parking area shall be fixed/bonded to prevent spillage onto the highway.

Reason: In accordance with highway safety and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH9 of the Adopted Torquay Neighbourhood Plan 2012-2030.

7. Prior to the first occupation of the development hereby permitted details of at least one electric vehicle charging point (EVCP) and its cabling shall be submitted and agreed in writing by the Local Planning Authority. The EVCP shall be provided in accordance with the approved details prior to first occupation of the development and retained in a satisfactory working condition thereafter. The cabling shall avoid the root protection zone of the street tree adjacent the application site.

Reason: In the interests of carbon reduction and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030 and Policy TH9 of the Adopted Torquay Neighbourhood Plan 2012-2030.

8. Prior to the first occupation of the development hereby permitted details of weatherproof and secure cycle storage for five cycles shall be submitted and agreed in writing by the Local Planning Authority. The bicycle storage enclosure shall be provided in accordance with the approved details prior to first occupation and retained thereafter.

Reason: To ensure a satisfactory completion of development and ensure the provision of facilities to support the use of sustainable transport modes in accordance with Policies DE3 and TA3 of the Torbay Local Plan 2012-2030.

9. Prior to the first occupation of the development hereby permitted details of the proposed refuse and recycling bin enclosure shall be submitted and agreed in writing by the Local Planning Authority. The bin enclosure shall be provided in accordance with the approved details prior to first occupation and retained thereafter.

Reason: To ensure a satisfactory completion of development and protect the amenity of future and neighbouring occupants and the appearance in the area in accordance with Policy DE3 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

10. Prior to the first occupation of the development hereby approved, a scheme of hard and soft landscaping shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next

available planting season with others of a similar size and the same species. The approved hard landscaping details shall be provided within 8 weeks of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH8 of the Adopted Torquay Neighbourhood Plan 2012-2030.

#### 10. Tree Protection for street tree

(i) Any work carried out to the street tree on Newton Road adjacent to the site shall be with the written approval of the Local Planning Authority. Such work will be to British BS 3998: 1989 as a minimum standard.

(ii) The development hereby approved shall not commence, and no materials shall be brought onto site, until the street tree is protected by fencing within the application site as per BS 5837: 2005. This will either be chestnut pale fencing or a scaffold structure 2.4 metres high supported durable man-made sheeting (either plywood or OSB of an exterior grade). Chestnut pale fencing will be to BS 1722: Part 4: 1989, as a minimum standard. This will consist of 1.200 mm pales, wired together as per standard, supported on three line wires, secured to fencing posts to a minimum standard of: 1800 mm long, 7 mm (3") top, driven 500 mm into the ground. In addition, straining posts, 1800 mm long by 100 mm (4") top, strutted where a change of direction occurs, will be installed at all ends and corners, at changes of direction, or acute changes of level, and at intervals no exceeding 50 m in straight lengths of fence. The fence will be installed upright, with all posts firmly bedded in the ground and line wires tensioned, and shall be maintained in such a condition throughout the duration of the development.

(iii) The fence shall be installed no closer to the trunk of the retained tree than the edge of the canopy or a distance equivalent to half the height of the tree, whichever is the greater.

(iv) The area beneath the tree and between the trunk of the tree and the fence will be kept clear and undisturbed at all times. No materials shall be stored within the fenced area; the levels of the land within the fenced area shall not be altered, and no seepage of oils, fuels or chemicals (including cement and cement washings) which may be harmful to trees shall be allowed onto the fenced area.

(v) No trenches for service runs, or any other excavations shall take place within the fenced area.

(vi) No soil or other surface material shall be removed from the fenced area except by written permission of the Local Authority. Where such a permission is granted, materials shall be removed manually, without powered equipment, taking adequate precautions to prevent damage to tree roots.

Reason: To ensure that all existing trees on and adjacent to the site are adequately protected while development is in progress.

**Relevant Policies**

*Torbay Local Plan:*

H1 – Applications for New Homes

DE1 - Design

DE3 – Development amenity

DE5 – Domestic Extensions

TA2 - Development access

TA3 - Parking requirements

ER1 - Flood Risk

NC1 - Biodiversity and Geodiversity

C4 – Trees, hedgerows and natural landscape features

SS3 – Presumption in favour of sustainable development

SS14- Low carbon development and adaptation to climate change

ES1 - Renewable and low-carbon infrastructure

*Torquay Neighbourhood Plan:*

TH8 - Established architecture

THW4 – Outside Space Provision

TH9 - Parking Facilities

## TORBAY COUNCIL

Application Site Address	Mayfield School Moor Lane Torquay TQ2 8NH
Proposal	Formation of new staff & teaching block.
Application Number	P/2021/0357
Applicant	Torbay Council
Agent	Mr Jonathan Ling-Cotter – MTA Chartered Architects Ltd
Date Application Valid	23/04/2021
Decision Due date	18/06/2021
Extension of Time Date	Not applicable.
Recommendation	Conditional approval subject to the conditions detailed below. Final drafting of conditions, and addressing any further material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director responsible for Planning, Housing and Climate Emergency.
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from neighbours, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	Emily Elliott

### Location Plan:



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SITE LOCATION PLAN  
scale 1:1250

### **Site Details**

The site contains an established school complex that dates from the mid/late 20th Century but features quite large-scale latter-day 21st Century additions. The school buildings are modern in design, with low-lying one and two-storey buildings with flat and pitched roofing, rendered walls and aluminium casement windows. The site lies to the north of Moor Lane on the outskirts of Torquay and sits within the Watcombe Park Conservation Area. The proposal would fall within the cusp of the Steps Cross Urban Landscape Protection Area as defined by Policy C5 of the Torbay Local Plan and is within the Watcombe Community Investment Area as defined by Policy SS11 of the Torbay Local Plan.

The proposal would be sited on sloping land within the school site that ranges between 93.73-96.53 (AOD).

### **Description of Development**

The proposal seeks permission for the formation of a new staff and a teaching block, which would provide a staff room, a training room, a number of office spaces, water closets and kitchenettes. The proposed development would result in 353 square metres of new gross internal floorspace. The proposal would also include a new pedestrian access into the site from Steps Lane.

The proposal would have a principle storey elevated above ground on its southern side to take into account the topography of the land whilst being supported by a bank of coloured columns. The proposal is sited in this location, as it is identified as the last remaining area of open ground within the school which has the potential for future expansion. The proposal is located on the western edge of the existing school grounds bordering Steps Lane and as such the proposed development is positioned to address both the orientation of the main school buildings and the alignment of Steps Lane. The principal level of the building is elevated to meet the adjacent block that was approved in 2011, and a new enclosed bridge links the proposed and existing blocks whilst providing complete accessibility.

Each block is finished in a lightweight cladding material; self-finished metal and fibrous cement. These materials have been chosen to create a strong planar quality emphasising the solidity of the blocks as well as providing low maintenance and longevity. The external windows to the north and south elevations are full height low-e coated glass with polyester powder coated aluminium frames providing good visibility out into the school grounds. Self-finished coloured cladding panels are interspersed and set back into the window reveals. The bridge link between the 2011 building and the new block is encased in glass to accentuate the separation. The space beneath the building is part buried, part exposed with the buried portion housed in metal cladding with a Forticrete Linear concrete block plinth course and retaining structure. The exposed columns are to be encased in coloured cladding.

### **Pre-Application Enquiry**

DE/2021/0015: New staff and training block. Pre-application enquiry response given:

- Principle of development → Impact on ULPA designation and outdoor sports facility is likely to be considered acceptable.
- Visual impact → Broadly acceptable subject to detailed design.
- Residential amenity impact → Limited impact on adjacent neighbours given separation distance.
- Highways impact → Would not result in additional staff or pupils attending the school, so it would not directly result in additional trips onto the highway network once operational. Additional information required should a formal submission be made: confirm the proposals do not directly result in an increase in school size in terms of pupil or staff numbers over that which was in place in 2020; demonstrate that the site can safely be accessed by pupils, staff and visitors; demonstrate the model split of pupils and staff; demonstrate the proposals would not have an adverse impact on the existing parking provision; and; provide details of the access strategy used at the school and how the proposals tie into this.
- Arboricultural impact → Satisfied with the Arboricultural statement and its findings/conclusions.

### **Relevant Planning Policy Context**

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

#### **Development Plan**

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Adopted 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/2011/1319: Alterations and formation of four classroom extension and related facilities with plant and stores in undercroft. Approved 20/02/2012.

P/2011/1099: Installation of solar panels on roof(s) of building(s). Approved 10/11/2011.

P/2010/1272: Removal of one timber shed and replace with new timber lodge with pitched roof; installation of 2 gazebos to form a covered area for pupils. Approved 17/12/2010.

P/2009/0167: Single storey extension. Approved 07/04/2009.

P/2005/0559: Formation Of Additional Car Parking; Reposition Entrance. Approved 24/05/2005.

P/2003/1557: Erection Of Additional Classroom (And Minor Amendments To Existing Application Ref App.No P/2001/0255/R3). Approved 03/11/2003.

### **Summary of Representations**

The application was publicised through a site notice and neighbour notification letters. Approximately 3 letters of objection, 2 letters of support and 1 letter of neutral representation has been received.

Concerns raised include:

- Traffic and access

Comments include:

- Provides educational facilities

An update on representations will be given to Members at Planning Committee.

### **Summary of Consultation Responses**

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

No response received.

#### **Sport England:**

The proposed development does not fall within either our statutory remit (Statutory Instrument 2015/595), or non-statutory remit (National Planning Policy Guidance (PPG) Par. 003 Ref. ID: 37-003-20140306), therefore Sport England has not provided a detailed response in this case, but would wish to give the following advice to aid the assessment of this application.

General guidance and advice can however be found on our website:

[https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning\\_applications](https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications)

If the proposal involves the loss of any sports facility then full consideration should be given to whether the proposal meets Par. 97 of National Planning Policy Framework (NPPF), link below, is in accordance with local policies to protect social infrastructure and any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

If the proposal involves the provision of a new sports facility, then consideration should be given to the recommendations and priorities set out in any approved Playing Pitch Strategy or Built Sports Facility Strategy that the local authority may have in place. In addition, to ensure they are fit for purpose, such facilities should be designed in accordance with Sport England, or the relevant National Governing Body, design guidance notes:

<http://sportengland.org/facilities-planning/tools-guidance/design-and-cost-guidance/>

If the proposal involves the provision of additional housing (then it will generate additional demand for sport. If existing sports facilities do not have the capacity to absorb the additional demand, then new and/or improved sports facilities should be secured and delivered in accordance with any approved local policy for social infrastructure, and priorities set out in any Playing Pitch Strategy or Built Sports Facility Strategy that the local authority has in place.

In line with the Government's NPPF (including Section 8) and PPG (Health and wellbeing section), consideration should also be given to how any new development, especially for new housing, will provide opportunities for people to lead healthy lifestyles and create healthy communities. Sport England's Active Design guidance can be used to help with this when developing or assessing a proposal. Active Design provides ten principles to help ensure the design and layout of development encourages and promotes participation in sport and physical activity.

NPPF Section 8: <https://www.gov.uk/guidance/national-planning-policy-framework/8-promoting-healthy-communities>

PPG Health and wellbeing section: <https://www.gov.uk/guidance/health-and-wellbeing>

Sport England's Active Design Guidance: <https://www.sportengland.org/how-we-can-help/facilities-and-planning/design-and-cost-guidance/active-design>

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

I refer to the above application for new office and teaching block at Mayfield Special School. There were detailed pre-application emails between ourselves and Richard Sutton of the TDA, which I attach for information. The supporting information indicates the need for the additional buildings and that the field in question is too steep to be used as a playing area. Whilst it is within the Watcombe Park Conservation Area, the extension will be seen in the context of the modern school buildings, and any (less than substantial) impact will need to be balanced with the need to give great weight to the need to expand or alter schools (NPPF 94). Policies SC3 and SC5 of the Local Plan also support the proposal.

I note that on-street parking is an issue in the vicinity of Moor Lane due to the proximity of three schools. No additional parking spaces are proposed. Although the submitted

details indicate that no additional staff or pupils are proposed, this may be difficult to ensure (and there may be other desirable reasons to increase staffing or pupil numbers). Whilst the scope to ensure sustainable modes of transport is likely to be limited by the nature of the school, I think it would be desirable to require an updated Travel Plan, via planning condition, to seek to reduce single occupancy car use by staff and mitigate any tensions with nearby residents. (Note that I am making this suggesting in a Planning rather than Highways Authority, and as such can acknowledge the wider public interest benefits of the school extension. WSP may be providing a highways specific response).

I included the NPPF advice that the LPA needs to give “great weight” to meeting schools needs to expand. I would suggest that the information supporting an application makes it clear that the land is too steep to be used as playing field.

As far as I understand it, the ULPA was designated to protect the woodland and backdrop associated with Brunel Woods. Proposals should not “undermine the value of the ULPA as an open or landscaped feature within the urban area” (Policy C5 of the Local Plan). However, it doesn’t appear to me that the proposal would have significantly greater impact on the setting of Brunel Woods than the recent 2 storey school buildings. In any event the need to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area is the bigger policy test. Because it is in a conservation area (etc), it would be worth setting out why the extension is needed to improve teaching and learning outcomes (etc.), so that any “less than substantial” harm to the significance of the CA can be weighed against the public benefits.

On the basis of the above (and the attached emails) I support the proposal.

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

No objections subject to the inclusion of the following condition:

Construction Management Plan:

No development shall take place until a site specific Construction Management Plan has been submitted to and been approved in writing by the Council. The plan must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust. The plan should include, but not be limited to:

- Procedures for maintaining good neighbour relations including complaint management.
- All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:

08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and; at no time on Sundays and Bank Holidays.

- Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.
- Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009 Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.
- Control measures for dust and other air-borne pollutants.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development.

**Torbay Council's Drainage Engineer:**

The developer has failed to indicate on the submitted flood risk assessment how surface water is to be discharged from the development. As the site is located in Flood Zone 1 and providing the developer is proposing to use sustainable drainage for his surface water drainage, please use the recently agreed standing advice for this planning application.

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

The arboricultural planning statement represents a fair reflection the site and the impact the proposal is likely to have on any retained vegetation. The ecological report indicates that a couple of metres of poor quality hedge will be lost along with the internal scrub and shrubs. No objection is raised to the proposal but it a pre-commencement landscape condition should be in place to mitigate the loss of 'green' from the site.

**Torbay Council's Highways Engineer:**

An update will be given to Members at Planning Committee once in receipt of the Local Highway Authority's response.

**Planning Officer Assessment**

Key Issues/Material Considerations

1. Principle of Development
2. Impact on Visual Amenity
3. Impact on Residential Amenity
4. Impact on Highways
5. Impact on Ecology and Trees
6. Impact on Flood Risk and Drainage
7. Low Carbon Development

## **1. Principle of Development**

The proposal seeks permission for the formation of a new staff and a teaching block at Mayfield School, Moor Lane, Torquay.

Paragraph 94 of the NPPF states that local planning authorities should give great weight to the need to expand or alter schools through the decisions on applications.

Policy SC3 of the Local Plan specifies that the Local Plan will support the improvement of existing and provision of new educational facilities to meet identified needs in Torbay. Policy SC3 notes further that this includes the expansion of schools to meet identified short to medium-term needs. Policy SC5 of the Local Plan states that new development will be assessed for its contribution towards reducing child poverty, proportionate to the scale and nature of the proposal. This includes the need to support investment in existing schools and make appropriate contributions, and improve equality of access to high quality education provision for all, including early-years education. The proposed development would improve the education facilities in the area. As such, it is considered that the principle of the development would accord with Policies SC3 and SC5 of the Local Plan.

The proposal would utilise land that is steeply sloping and not used for sporting facilities by the school, the supporting information for this application makes it clear that the land cannot be used as playing field.

The site is within the Watcombe Community Investment Area as defined by Policy SS11 of the Local Plan. Policy SS11 states that that development proposals should promote social inclusion including based on access to education, as well as meeting the needs of residents and enhancing their quality of life. The proposal would assist at enhancing the provisions of an existing school, therefore it is considered that the proposal complies with Policy SS11 of the Local Plan.

It should be noted that the Council's Senior Strategy and Project Planning Officer supports the proposed development. In the context of the proposed development it is within the built up area there are no Development Plan policies indicating that the proposal is not acceptable in principle. It is important to note that the point of general principle is subject to broader planning policy considerations and other relevant material considerations, which will be discussed in more detail below.

## **2. Impact on Visual Character**

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

The proposal is for the formation of a new staff and a teaching block. The proposal is positioned to address both the orientation of the main school buildings and the alignment of Steps Lane. The result is the building is seen as two interconnecting blocks and the space between the two opens up to create a widened circulation space that directs the flow of movement through the building. The alignment with Steps Lane is seen as an important juxtaposition which defines the edge of the development. The rotation of the plan signifies the closure of the school quadrangle.

The principal level of the building is elevated to meet the adjacent 2011 block and a new enclosed bridge links the two blocks whilst providing complete accessibility. The inclusion of two access points is dual purpose; life safety, providing two means of escape and the other to provide a distinct entrance to the Steps Lane access link. This allows the school to manage the building independently from the other parts of the school outside of school hours for community and other such uses. The school was also keen for the building to appear as a stand-alone facility with the staff and training rooms sufficiently distanced from the main campus which will allow them the space and environment to recuperate from their daily demanding responsibilities.

The interconnecting blocks are both additive and subtractive in their relationship which is expressed through the elevations and sections. The principal storey is elevated above ground on its southern side on account of the topography and this is celebrated with a bank of coloured columns. The space beneath provides a sheltered and protected outside space for play and teaching connecting it with the landscape. Each block is finished in a lightweight cladding material; self-finished metal and fibrous cement. These materials will create a strong planar quality emphasising the solidity of the blocks as well as providing low maintenance and longevity. The external windows to the north and south elevations are full height low-e coated glass with polyester powder coated aluminium frames providing good visibility out into the school grounds. Side windows are half height to allow work surfaces, cisterns and cable trunking to be fixed beneath. Self-finished coloured cladding panels are interspersed and set back into the window reveals. The bridge link between the 2011 approved building and the new block is encased in glass to accentuate the separation. The space beneath the building is part buried, part exposed with the buried portion housed in metal cladding with a Forticrete Linear concrete block plinth course and retaining structure. The exposed columns are to be encased in coloured cladding.

The proposed building would have a gross internal floorspace of 353 square metres. The proposal would have a lower ground floor and ground floor. The lower ground

floor of the proposal would provide an area for outside play and teaching space and an enclosed void. The ground floor would provide a staff room, a training room, a number of office spaces, water closets and kitchenettes. The proposed finished floor level for the ground floor of the building would be 97.06 (AOD). Given the topography of the land, the proposal has varying measurements. The width varies between approximately 18.1 metres to 20.4 metres, the length varies between approximately 19 metres to 24.3 metres and the height varies between 5.1 metres to 8.1 metres, however the blocks would have a similar height, given how the proposal adapts to the topography.

The surrounding area is somewhat urban in character, but development is at a lower density at this end of Moor Lane. The site is within the Watcombe Park Conservation Area as defined by Policy SS10 of the Local Plan. Policy SS10 of the Local Plan states that proposals that may affect heritage assets will be assessed on the need to conserve and enhance the distinctive character and appearance of Torbay's conservation areas, whilst allowing sympathetic development within them. Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty on the LPA when making a decision on the application to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. It is considered that the proposed development will be seen within the context of the existing modern school buildings, and would be considered to result in a neutral impact when considering the impact the proposal would have upon the heritage asset, given that the proposal would not make the site any more visually prominent, nor would the loss of open space within the school site be harmful to the setting of the heritage asset, as the proposal is well-designed and complements the existing modern school site. Therefore, it is considered that the proposal would sustain the character and appearance of the heritage asset. It should be noted that the impact on the heritage asset will need to be balanced with the need to give great weight to the need to expand or alter schools.

It is also important to give consideration to the Urban Landscape Protection Area (ULPA) designation on site in relation to the potential impact the proposal may have.

The site is 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 cumulative effects of the existing buildings within the school site. The Council's Senior Strategy and Project

Delivery Planning Officer has stated that the ULPA was designated to protect the woodland and backdrop associated with Brunel Woods. It is considered that the application site is visible from Moor Lane and other public realm vantage points. However, the proposal would provide a continuation of the existing built form on site and would not protrude beyond the existing building line. It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPA. It is considered 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 in terms of the proposal not undermining the value of the ULPA as an open or landscaped feature within the urban area and making a positive contribution to the urban environment and enhance the landscape character of the ULPA, subject to a suitable landscaping scheme.

Given its siting, scale, and design of the proposal, it is considered that the proposal would not result in unacceptable harm to the character or visual amenities of the locality or the wider heritage asset. It is considered that the proposal would result have a neutral impact on the setting and character of the Watcombe Park Conservation Area and therefore would sustain and preserve the character and appearance of the heritage asset, given that the proposal is well-designed and in keeping with the existing modern school buildings. It is also considered that the proposal would not have a significant adverse impact upon the Steps Cross ULPA.

The proposal is considered to accord with Policies DE1, C5 and SS10 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

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

Paragraph 127 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 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 site has Steps Lane and residential properties to the west, existing school buildings and beyond that further residential properties to the north and east, and Moor Lane and Steps Cross Park to the south. The representations received do not raise concerns regarding residential amenity. The Council's Senior Environmental Health Officer raises no objection to the proposal, subject to a planning condition to secure a Construction Method Statement. It is considered that there will be limited impact on adjacent residential properties given the separation distances.

Given its siting, scale, and design of the proposal, it is considered that the proposals would not result in any unacceptable harm to the amenities of neighbours in terms of

their outlook, privacy, or access to natural light. The proposal is therefore considered to be in accordance with Policy DE3 of the Local Plan.

#### **4. Impact on Highways**

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy 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 is largely silent on the matter of parking in relation to non-housing development.

Letters of objection and representation have raised concerns regarding traffic and access. The proposed scheme seeks to expand on the principles of whole-school accessibility and as such adopts the level access strategy used throughout. All rooms are fully accessible. All thresholds are level. There are two new mobility washrooms provided within the building and two new accessible kitchens; one for general use and one for training purposes. Group session rooms, training room, staff room, review room and 1-1 office and session rooms all include full height glazing or vision screens for sedentary views. There is a proposed new personnel entrance from Steps Lane providing modern fit for purpose pedestrian and disabled access to the site, the new block and the courtyard. This would be provided with a new gate in the perimeter of the site, together with steps and an access ramp. An existing larger access will be blocked up after the works along with improved perimeter landscaping.

It is not proposed to include any additional parking areas with this proposal. There is no anticipated increase in vehicle numbers as this development aims to address the existing pupil capacity issues and alleviate the current spatial constraints. The proposal would not alter the number of employees. As with all schools, the site (including the proposed new block) has the capacity to accommodate the usual activity outside of the traditional school hours including staff training, extending learning, meetings, third party evening classes and sports. This modest activity can be comfortably accommodated from the existing vehicle and personnel entrances, and the vehicle and cycle spaces. In addition, the applicant has stated that modest weekend use can be accommodated (e.g at present there is a Waterbabies event in the Hydro pool on Saturdays), although Sunday and Bank Holiday activities would be extremely rare.

There is an existing on-street parking issue in the vicinity of Moor Lane due to the proximity of three schools. The submitted information states that no additional staff or pupils are proposed, however the Council's Senior Strategy and Project Delivery Planning Officer has recommended that the existing Travel Plan is updated to seek to

reduce single occupancy car use by staff and mitigate any tensions with nearby residents, this recommended condition shall be included in the list of conditions at the end of this report. The main concerns regarding the impact on highways is during the construction phase of the proposed development. Therefore, a planning condition is recommended to secure a construction method statement that includes the applicant providing details of the parking of vehicles of site operatives and visitors and the loading and unloading of plant and materials. The Local Highway Authority have been consulted on the proposal, an update will be provided to Members upon receipt of this response.

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

Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale.

The application is supported by an Ecological Impact Assessment. The site is just outside the Landscape Connectivity Zone for the South Hams Special Area of Conservation for the Greater Horseshoe Bat.

The site is approximately 0.09 hectares (ha) and comprised amenity grassland, hardstanding, species poor hedge and scattered scrub. The site was found to be of low ecological interest, but the short section of species-poor hedgerow offered some limited opportunities for nesting birds and dormice. The proposed development will result in the temporary loss of 0.02ha and permanent loss of 0.07ha of amenity grassland and -2 metres of hedgerow.

There is possibility for temporary foraging disruption during construction and through the loss of -2 metres of species poor hedgerow. The report states that the Ecologist considers the impact to be low, and the loss of 2 metres of foraging habitat will be compensated by the filling up of existing gaps in the hedge. The removal of -2 metres of hedgerow will have negligible impact on nesting birds if carried out outside of the bird nesting season. Due to the isolation of the site within the wider landscape, and the negligible chance of the hedgerow supporting a dormouse population, habitat loss on site will be of negligible impact for dormouse and will not affect the favourable conservation status of this species. No further ecological survey work is considered necessary.

The report sets out the mitigation and compensation measures to minimise the impacts on important ecological features, including carrying out hedgerow removal outside of the bird nesting season, with a pre-start check by a suitably experienced ecologist; the protection and enhancement of retained hedgerow on site; and no overall increase in exterior lighting. The report includes recommendations which are recommended as a planning condition to enhance the site for biodiversity post-development. Subject to the aforementioned planning condition, the proposal is considered to accord with Policy NC1 of the Local Plan.

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 site is within the Watcombe Park Conservation Area. The Council's Senior Tree and Landscape Officer has been consulted on the proposal. The Officer has stated that the submitted arboricultural statement represents a fair reflection the site and the impact the proposal is likely to have on any retained vegetation. The ecological report indicates that a couple of metres of poor quality hedge will be lost along with the internal scrub and shrubs. The Officer therefore raises no objection to the proposal, subject to the inclusion of a planning condition for a landscaping scheme to be submitted prior to commencement to mitigate the loss of 'green' from the site. Therefore, subject to the aforementioned planning condition, the proposal is considered to accord with Policy C4 of the Local Plan.

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

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

The site is located within the Critical Drainage Area and the application has been accompanied by a flood risk assessment. The Council's Drainage Engineer was consulted on the proposal, the adopted Standing Advice applies to the proposal as it is within Flood Zone 1. A planning condition is recommended to ensure that a sustainable surface water drainage method is secured. Subject to the aforementioned planning condition, the proposal is considered to accord with Policy ER1 of the Local Plan.

## **7. Low Carbon Development**

Policy SS14 of the Local Plan seeks to promote a low carbon form of development with adaptations to climate change so as to minimise carbon emissions and the use of natural resources.

In regard to the Mechanical and Electrical Strategy, the heating proposals include an Air Source Heat Pump system which was chosen in place of extending the school's existing gas boiler system. The electrical specification includes energy efficient sensor controlled LED light fittings and minimal reliance on mechanical ventilation as the building is naturally ventilated. In addition, the applicant has chosen a lightweight metal structural frame and mineral fibre rainscreen cladding with mineral wool insulation all of which provides a sustainable method of construction with high recyclable content.

Further details include the overall design solution which considered minimum ground excavation reducing the reliance on retaining reinforced concrete structures. The applicant has also adopted an efficient single storey flat roof solution to the site and removing the need for extraneous structures and roof void areas. With such measures in place, the proposal is considered to be in accordance with Policy SS14 of the Local Plan.

### **Sustainability**

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

#### **The Economic Role**

Educational development is important for individual growth and the economy and there would be economic benefits to the construction industry from the proposed development.

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

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

#### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional educational facilities. Given the NPPF, great weight should be given to the expansion of schools and therefore the proposal must carry great weight in this balance.

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

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

#### **The Environmental Role**

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

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

The proposed development is in a sustainable location inasmuch as it is within the existing urban area.

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

### **Sustainability Conclusion**

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

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

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

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

### **Local Finance Considerations**

S106: Not applicable.

CIL: Not applicable.

### **EIA/HRA**

ERA: Due to the scale, nature and location this development will not have significant effects on the environment and therefore is not considered to be EIA development.

HRA: Not applicable.

### **Planning Balance**

This report gives consideration to the key planning issues, the merits of the proposal, development plan policies and matters raised in the objections received. It is concluded that no significant adverse impacts will arise from this development and it is in accordance with the Development Plan, including the Torquay Neighbourhood Plan. As such it is concluded that the planning balance is in favour of supporting this proposal.

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

The proposal on balance is considered acceptable in principle; would not result in unacceptable harm to the character of the area, heritage assets, or local amenity; would provide acceptable arrangements in relation to access, trees, ecology and flood risk. The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director for Planning, Housing and Climate Emergency.

### **Conditions**

#### **Construction Method Statement**

No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to, and approved in writing by, the Local planning authority. The approved Statement shall be adhered to throughout the construction period. The Statement shall provide for:

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust, dirt and other air-borne pollutants during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery. Procedures for maintaining good neighbour relations including complaint management. Mitigation measures as defined in BS 5528: Parts 1 and 2 : 2009

Noise and Vibration Control on Construction and Open Sites shall be used to minimise noise disturbance from construction works.

- i) All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between the following hours:  
8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.
- j) Deliveries to and removal of plant, equipment, machinery and waste from the site must only take place within the permitted hours detailed above.

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

This pre-commencement condition is required to ensure that neighbour amenity is duly protected.

### **Removal of Vegetation**

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

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

### **Ecology Report**

The development hereby approved shall be carried out in accordance with the mitigation measures and recommendations set out in the approved ecology report (plan reference 1248-EclA-DM (Impact assessment)' received 23<sup>rd</sup> April 2021).

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

### **Flood Risk Assessment**

Notwithstanding the submitted flood risk assessment, surface water drainage shall be provided by means of soakaways within the site which shall comply with the

requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change.

If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement of the development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 40% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 40% allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream.

Reason: In the interests of adapting to climate change and managing flood risk, and in order to accord with Policies ER1 and ER2 of the Torbay Local Plan 2012-2030, and the guidance contained in the NPPF.

### **Materials**

Prior to their installation details and samples of the proposed exterior materials including the cladding wall finish, windows, doors, eaves, fascias and rainwater goods shall 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.

Reason: In the interest of visual amenity and in accordance with Policy DE1 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan 2012-2030.

### **Landscaping**

Prior to development continuing above slab level a scheme of 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 8 weeks of the development being brought into use, and shall be retained for the life of the development.

Reason: In the interests of visual amenity and in accordance with Policies DE1 and C5 of the Torbay Local Plan 2012-2030

### **Travel Plan**

Prior to the use of the development hereby approved, a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The submitted information shall provide details of an update to the existing Travel Plan, setting out opportunities to seek to reduce single occupancy car use by staff and mitigate any tensions with nearby residents, 30% modal shift for staff and visitors, with SMART targets and monitoring regime, with the achievement of targets being given over a specific timeframe.

Reason: In the interests of road safety and sustainability, and in order to accord with Policies TA1 and TA3 of the Torbay Local Plan 2012-2030.

### **Informative(s)**

1. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
2. 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.
3. Responsibilities of the applicant / developer:

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

year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

**Relevant Policies**

C4 – Trees, Hedgerows and Natural Landscape Features

C5 – Urban Landscape Protection Areas

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

NC1 – Biodiversity and Geodiversity

SC3 – Education, Skills and Local Labour

SC5 – Child Poverty

SS3 – Presumption in Favour of Sustainable Development

SS10 – Conservation and the Historic Environment

SS11 – Sustainable Communities

SS14 – Low Carbon Development and Adaptation to Climate Change

TA2 – Development Access

TA3 – Parking Requirements

TH8 – Established Architecture