

Friday, 2 December 2022

**PLANNING COMMITTEE**

A meeting of **Planning Committee** will be held on

**Monday, 12 December 2022**

commencing at **4.30 pm**

The meeting will be held in the Meadfoot Room, Town Hall, Castle Circus,  
Torquay, TQ1 3DR

**Members of the Committee**

Councillor Pentney (Chairman)

Councillor Dart

Councillor Barbara Lewis

Councillor Dudley (Vice-Chair)

Councillor Manning

Councillor Hill

Councillor Mills

Councillor Kennedy

Councillor Jacqueline Thomas

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**, 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**

To confirm as a correct record the Minutes of the meeting of this Committee held on 14 November 2022.

(Pages 5 - 9)

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. **Rowcroft Hospice, Avenue Road, Torquay TQ2 5LS  
(P/2022/0772)**

(Pages 10 - 59)

Demolition of Mildmay, the art room and estate workshop buildings and construction of new 60-bed specialist dementia & complex needs nursing home with ancillary facilities (Use Class C2). Remodelling of and extension to Main House to provide a 14-bed inpatients unit with ancillary facilities (Use Class C2). Remodelling of Rainbow House and construction of 40 assisted living units with communal facilities (Use Class C2). Various additional construction and remodelling works around the site.

6. **Former Shedden Hall Hotel, Shedden Hill Road, Torquay TQ2 5TX (P/2021/1314)** (Pages 60 - 89)  
Outline Application for the construction of residential accommodation for up to 25 units (Detailed approval sought for Access, Appearance, Layout and Scale, with Landscaping a Reserved Matter).
7. **Land To The North Of Totnes Road, Collaton St Mary, Paignton** (Pages 90 - 121)  
Reserved Matters relating to Outline Application P/2019/0604. Matters for approval: Details of appearance, landscaping, layout, and scale, as stated in Appeal Condition 01 (revised documents received 24 October 2022).
8. **Former Magistrates Court, Union Street, Torquay TQ1 4BP (P/2022/0969)** (Pages 122 - 141)  
Conversion of the former Magistrates Court to form 14 residential apartments, including partial demolition, the provision of an additional floor, and external changes including the provision of balconies, terraces, and associated car parking, bike parking and bin storage.
9. **Land At Princess Gardens, Off Torbay Road, Torquay TQ2 5EY (P/2022/1032)** (Pages 142 - 158)  
Change of use of land for the temporary erection and operation of an observation wheel and ancillary development, for a one-year season (between the period of March to October 2023)

### **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.

We are trialling hybrid meeting arrangements to give registered speakers the opportunity to either attend the meeting in person to give their views or to attend the meeting remotely via Zoom. If you would like to attend the meeting remotely to speak you will be provided with a Zoom link to join the meeting. We also ask that you provide a copy of your speech to [governance.support@torbay.gov.uk](mailto:governance.support@torbay.gov.uk), before 11 am on the day of the meeting, so that the Clerk will be able to continue to read out your speech if you lose connection or cannot be heard in the physical meeting. Remote attendees who lose connection may still be able to follow the meeting via the live stream on the Council's YouTube channel.

Councillors who are not members of the Planning Committee will also be able to join the meeting via Zoom and must use their raise hand function to declare any interests.

**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, 7 December 2022. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

**Meeting Attendance**

Please note that whilst the Council is no longer implementing Covid-19 secure arrangements attendees are encouraged to sit with space in between other people. Windows will be kept open to ensure good ventilation and therefore attendees are recommended to wear suitable clothing.

If you have symptoms, including runny nose, sore throat, fever, new continuous cough and loss of taste and smell please do not come to the meeting.

**Live Streaming**

To encourage more people to engage in our public meetings the Council is trialling live streaming our Planning Committee meetings on our YouTube channel in addition to recording the meetings and publishing the recording on our website. To watch the meeting live please visit <https://www.youtube.com/user/torbaycouncil>.

## **Minutes of the Planning Committee**

**14 November 2022**

**-: Present :-**

Councillor Pentney (Chairman)

Councillors Hill, Kennedy, Manning, Mills, Jacqueline Thomas, Steve Darling and  
Chris Lewis

(Also in attendance: Councillor Long)

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### **16. Apologies for absence**

It was reported that, in accordance with the wishes of the Conservative Group and the Liberal Democrat Group, the membership of the Committee had been amended to include Councillors Chris Lewis and Steve Darling in place of Councillors Barbara Lewis and Dart respectively.

### **17. Minutes**

The Minutes of the meetings of the Planning Committee held on 9 May and 10 October 2022 were confirmed as a correct record and signed by the Chairman.

### **18. Greenway Farm, Kennels Road, Churston Ferrers, Brixham TQ5 0HJ (P/2022/0657)**

The Committee considered an application for the erection of a general purpose agricultural building and associated works (retrospective).

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

At the meeting the Planning Officer advised, that since the report had been published one additional letter of objection had been received which raised no new material considerations.

Resolved:

Approved subject to:

1. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

In accordance with Standing Order A18.4 the voting was taken by roll call as follows:  
 For: Councillors Dudley, Hill, Steve Darling, Manning, Chris Lewis, Jackie Thomas and Pentney (7); and Against Councillors Kenney and Mills (2):

(Note: Prior to consideration of the item in Minute 18, Councillor Kennedy declared a non-pecuniary interest as she was the ward councillor for Churston and Galmpton and the Chairman of the Broadsands, Churston and Galmpton Neighbourhood Forum. Councillor Kennedy advised that she would not be excluding herself from consideration of this application and confirmed that she had not predetermined the application and that she would consider the application objectively on its merits.)

**19. Land at Brokenbury Farm, Galmpton, Brixham (P/2021/0658)**

The Committee considered an application for the formation of a solar farm & associated equipment to include installation of fencing, CCTV, landscaping & ecological mitigation.

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were available on the Council's website. At the meeting Ian Russell addressed the Committee against the application. Ed Brown addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Long addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published four additional letters of objection had been received in respect of the inappropriate location of the site, construction, health risk and wildlife.

Resolved:

Approved subject to:

1. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

(Note: Prior to consideration of the item in Minute 19, Councillor Kennedy declared a non-pecuniary interest as she was the ward councillor for Churston and Galmpton and the Chairman of the Broadsands, Churston and Galmpton Neighbourhood Forum. Councillor Kennedy advised that she would not be excluding herself from consideration of this application and confirmed that she had not predetermined the application and that she would consider the application objectively on its merits.)

**20. Land at McKay Avenue, Torre (P/2022/0722)**

The Committee considered an application for the erection of 72 extra care apartments (use class C3) with parking, communal lounges, courtyard garden and cafe on ground floor.

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were available on the Council's website. Nigel Goodman addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Rob Finch addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Long addressed the Committee in support of the application.

At the meeting the Planning Officer advised, that since the report had been published the additional flood information had been submitted and the Engineering Service Manager was satisfied with the level of detail and had no objection to the scheme.

Resolved (unanimously):

1. that the Committee delegate authority to the Divisional Director of Planning, Housing and Climate Emergency to grant conditional approval subject to the conditions detailed in the submitted report; and
2. final drafting of conditions, negotiation/completion of the nomination agreement, and addressing any further material considerations that may come to light following Planning Committee, to also be delegated to the Divisional Director of Planning, Housing and Climate Emergency.

**21. Former Debenhams Department Store, 12 - 14 The Strand, Torquay TQ1 2AA (P/2022/0806)**

The Committee considered an application for the redevelopment of the former Debenhams department store for a mixed-use, including 5 commercial, business and service units (Use Class E), 16 two bedroom residential apartments (Use Class C3), residents parking court and public square.

Prior to the meeting, Members of the Development Management Committee undertook a virtual site visit and written representations were available on the Council's website. Nigel Goodman addressed the Committee on behalf of the Torquay Neighbourhood Forum in support of the application. Ed Brown addressed the Committee in support of the application.

In accordance with Standing Order B4.1 Councillor Long addressed the Committee in support of the application.

Resolved (unanimously):

Approved subject to:

1. the Council commitment to make the off-site affordable housing contribution prior to occupation of the ninth residential unit being confirmed to the satisfaction of the Divisional Director of Planning, Housing and Climate Emergency;
2. the conditions set out in the submitted report; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

**22. Beach Cafe, Broadsands Road, Paignton TQ4 6HL (P/2022/0811)**

The Committee considered an application for the formation of additional decking areas and ramps, alterations to existing decking, extensions and alterations to building, formation of sports equipment storage and changing area, refuse area, ground floor retail unit, internal alterations to increase internal seating, solar PV and associated works.

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

At the meeting the Planning Officer advised, that since the report had been published the following response had been received from Devon and Somerset Fire and Rescue Authority:

“As the proposal will be subject to Building Regulations and the Regulatory Reform (Fire Safety) Order 2005, a statutory consultation will be undertaken between the Building Control Body and the Fire Authority.

Under this process, the proposal must comply with the functional requirements of Approved Document B of the Building Regulations, to include access requirements for Fire Service Vehicles (B5). These include Vehicle Access, including minimum road widths, turning facilities for fire service vehicles and maximum reversing distances of 20 meters.

In addition, the provision of appropriate water supplies for firefighting (Street Hydrants) including appropriate flow rates may need to be achieved. Information on this should be sourced from the National Guidance document on the provision of water for firefighting (3rd Edition; Jan 2007).”

Resolved (unanimously):

Approved subject to:

1. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
2. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

(Note: Prior to consideration of the item in Minute 22, Councillor Kennedy declared a non-pecuniary interest as she was the ward councillor for Churston and Galmpton and the Chairman of the Broadsands, Churston and Galmpton Neighbourhood Forum. Councillor Kennedy advised that she would not be excluding herself from consideration of this application and confirmed that she had not predetermined the application and that she would consider the application objectively on its merits.)

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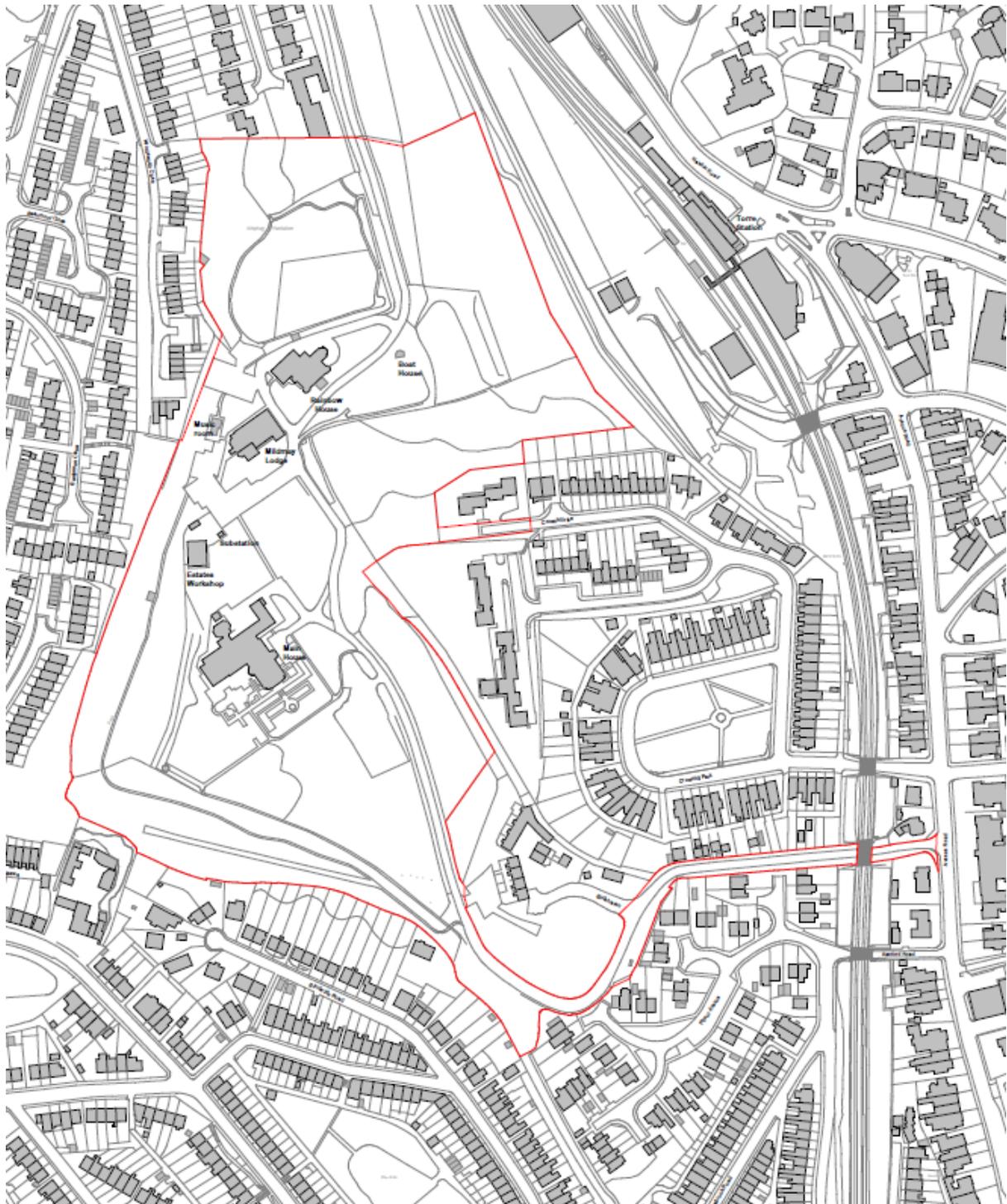
Chairman

## TORBAY COUNCIL

Application Site Address	Rowcroft Hospice, Avenue Road, Torquay TQ2 5LS
Proposal	Demolition of Mildmay, the art room and estate workshop buildings and construction of new 60-bed specialist dementia & complex needs nursing home with ancillary facilities (Use Class C2). Remodelling of and extension to Main House to provide a 14-bed inpatients unit with ancillary facilities (Use Class C2). Remodelling of Rainbow House and construction of 40 assisted living units with communal facilities (Use Class C2). Construction of 3 guest lodges (Use Class C2). Construction of shared resident and community facilities comprising restaurant (Use Class E(b)), creche / nursery (Use Class E(f)) and community room / village hall (Use Class F2(b)). Construction of estate workshop. Associated car and cycle parking. Comprehensive landscape scheme to include publicly accessible amenity space, communal and private amenity space, restoration of boating lake, sustainable drainage features, allotments, new tree planting and associated works. Various vehicular, cycle and pedestrian routes through the site. All associated infrastructure works. (As amended by plans received 14.11.2022.)
Application Number	P/2022/0772
Applicant	Rowcroft Hospice
Agent	Lichfields
Date Application Valid	04.07.2022
Decision Due date	03.10.2022
Extension of Time Date	27.01.2023
Recommendation	Approval subject to: <ol style="list-style-type: none"> <li>1. Completion of a S106 agreement</li> <li>2. Satisfactory completion of a Stage 1 Road Safety Audit for pedestrian/cycle access improvements to the Shipway Lane access/egress.</li> <li>3. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</li> <li>4. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the</li> </ol>

	Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Major application.
Planning Case Officer	June Pagdin

**Location Plan**



## **Site Details**

The application site comprises 8.9 Hectares to the north west of Torquay town centre on the crest of a ridge. The site contains three main buildings and a range of smaller structures. The main building, Main House (previously known as Pilmuir House), is towards the south end of the site. It has been extended to the rear and sides and contains a 12-bed hospice. The previous kitchen garden lies to the north and today all that remains is part of the garden wall and a largely flat grassed area in the central part of the site. The Mildmay Outpatients Unit lies to the north of this, in an extended stable block converted to an Outpatients Unit with car parking around it. Rainbow House, which contains office functions for the Rowcroft Charity and Hospice, sits to the north of Mildmay. The building has been extended to the rear but not amended significantly and retains its distinctive roof-scape and copper-clad turrets. The north end of the site contains an orchard. The site slopes down to the south and east and provides a plantation/parkland setting with many mature ornamental and native trees.

The main vehicle entrance to and exit from the site is a driveway from Avenue Road, which also serves a few residential properties to the southeast. The driveway runs through the site linking the three buildings and continuing northwards to a secondary exit road (one-way), which extends beyond the application site boundary and leads to Shipway Lane.

The site is bounded by steep hillsides with residential areas beyond to the east, west, north and south. There is a small industrial area to the northeast bordering the mainline railway and Torre Station.

The application site is designated in the Torbay Local Plan as an Urban Protected Landscape Area (C5- 15 Rowcroft/Shipway Plantation). The lower northeast area is a designated wildlife site (OSW1) (Policy NC1 of the Torbay Local Plan).

The site is covered by numerous Tree Preservation Orders covering over 100 individual trees, several groups and four woodlands within and around the boundaries of the site. The site is in an area identified as potential overwintering for cirl buntings.

The site does not contain designated heritage assets such as Listed Buildings and is just outside the Torre Conservation Area, which lies to the east. However, the two main houses, gardens and subterranean WWII bomb shelter (below the orchard) are considered to be non-designated heritage assets due to their architectural merits and their historical and social associations.

The site is identified as a location where, further to Policy SS6.3 of the Local Plan, the development of strategic public rights of way for cycling and walking are sought. It is in Flood Zone 1 in the Torbay Critical Drainage Area and parts of the site are susceptible to surface water flooding.

## **Description of Development**

Full planning permission is sought through this application for comprehensive development of the site. The proposals are contained in a Planning Statement, a Design and Access Statement and a Landscape Strategy document and accompanied by plans, elevation and section drawings. In summary the proposal is for the following:

- i) Hospice building (Main House)- Selective demolition, refurbishment and extensions to accommodate a 14-bed inpatient unit, kitchen, offices for Rowcroft Charity (approximately 1,350sqm) and Outpatients Unit (OPU).
- ii) Demolition of Mildmay Stable building (OPU)
- iii) Construction of a 60-person Care Home on central area of site – to specialise in dementia care
- iv) Construction of restaurant, four support/retail units and a subterranean village hall
- v) Reconfiguration of Rainbow House (including roof dormers) to accommodate 5 assisted living apartments on upper floors (4x 2 bed, 1 x 1 bed), and communal facilities at ground floor (library, cinema, exercise studio, lounge) totalling 320sqm GIA.
- vi) construction of 35 assisted living apartments to north of Rainbow House (25 x 2bed, 10 x 1 bed) (14 at ground floor (9x2bed,5x1bed), 13 at 1<sup>st</sup> floor (10x2, 3x1bed), 8 at 2<sup>nd</sup> floor (6x2bed,2x1bed)) in three pavilions and two semidetached cottages with parking.
- vii) construction of 3 x 2 bedroom lodges for relatives of hospice residents and parking provision (two-storey with ridged roof, first floor balcony) in south east of site
- viii) construction of new estate workshop
- ix) construction of children's nursery
- x) construction of new route for spine road between the IPU and north end of site
- xi) footpath and cycle way connection to Crownhill Rise.
- xii) 176 car parking spaces
- xiii) Landscaping scheme to remove 107 trees, retain the rest and plant 125 new trees
- xiv) Drainage Scheme

Proposed Phasing is as follows:

**Phase 1** - Target commencement Early 2024 – Care Home in 3 phases (20 beds - 18 months each) first phase open 2025. Construct community facilities, village green, restaurant, subterranean village hall, nursery, estate workshop and three family lodges. Demolition of Mildmay Outpatients unit and temporary transfer to lodges and workshop. This phase includes re-routing of the spine road and associated landscaping including allotments and provision of temporary parking behind Rainbow House.

**Phase 2** – Target commencement 2026 (18 month) – Selective demolition of extensions to Main House, new Inpatient unit, extension to rear of main house, Outpatient Unit, arrival square, formal gardens and car parking. Inpatient unit temporarily moved to nursing home while hospice remodelled. Outpatients Unit to transfer to Main House and lodges converted to visiting family accommodation.

**Phase 3** – Target commencement 2028 (18 months) - Staff relocate from Rainbow House to new Main House. Rainbow house reconfiguration and construction of new assisted living apartments, with landscaping and lake reinstatement.

A range of new information has been provided:

- Amended designs to Assisted Living Units and to reduce dormers in Rainbow House
- Amended pedestrian movement layout at nursery and Care Home
- Removal of link to Crownhill Rise
- Amended tree overview to include species and size of trees
- Further clarity on drainage
- Inclusion of passing places on the driveway
- A plan for pedestrian and cycle route on the egress road
- Biodiversity Net Gain Metric

### **Pre-Application Enquiry**

P/2021/0155: Remodelling of Inpatient Unit, provision of 60-bed nursing home, assisted living apartments, a village centre and guest lodges. Split. 16.02.2022.

### **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")
- Healthy Torbay Supplementary Planning Document (HTSPD)

Material Considerations

- National Planning Policy Framework (NPPF 2021)
- 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/1989/0971: Residential Development (In Outline). Refused 24.07.1980.

P/1990/1657: Alterations and Extensions to Hospice. Approved 30.10.1990.

P/1990/2059: Alterations To Previously Approved Plans For Alteration And Extension To Hospice (Reference Application No. 90.1657.PA). Approved 04.01.1991.

P/1990/2203: Erection Of 28 Residential Flats (In Outline). Refused 16.04.1991.

P/2007/1866: Alterations and Extensions to Provide New Ground Floor, In-patient Ward within Existing Walled Garden. Part First Floor Accommodating Visitor Overnight and Staff Change Facilities. Remodelling of Existing Kitchen Wing and Interior Refurbishment of Existing Ground Floor to Provide New Out-Patient Clinic. New Entrance and Reception Space between Existing House and New Ward. New Energy Centre and Medical Gasses Store to The North of The Walled Garden. New Estates Building to The South East of The Existing House. Approved 22.02.2008. (Not implemented)

P/2008/0374: Temporary accommodation for estates department and temporary parking area. Approved 01.05.2008.

P/2009/0503: Formation of American barn for use as workshop, machinery shed and storage. Approval 07.09.2009.

P/2022/0041: EIA Screening Opinion: Remodelling of Inpatient Unit, provision of 60-bed nursing home, assisted living apartments, a village centre and guest lodges. Not EIA 30.03.2022.

### **Summary of Representations**

Neighbour letters were sent out on 11<sup>th</sup> July 2022. A site notice and newspaper advertisement were displayed on 13<sup>th</sup> July 2022.

Thirty nine comments were received; 1 objection, 28 supporting and ten neutral. Objections can be summarised as:

- Concern about foot/cycle connection from Crownhill Rise will increase traffic and overspill parking pressure for street parking and affect air quality and safety of pedestrians, children playing on Crownhill Park and riding their bicycles
- Traffic impact assessment should be carried out
- The existing access should be improved with pedestrian provisions/pavement, speed humps and lighting
- A radar-controlled speed sign
- Improve the footpath/cycle way from Shiphay Lane with a slope to replace steps
- Reinstate footpath from R/O Crownhill Rise to Torre Station
- A cycle lane and double yellow lines should be installed in Crownhill Rise
- Magnificent beech trees backing onto Wordsworth Close (nth edge of site) must stay (as plans indicate)
- The scale of development proposed is likely to impact the surrounding area

Supporting comments include:

- Rowcroft expansion is vitally needed
- Important for aging community
- Beautiful setting for end-of-life care
- Support intergeneration community projects and accommodation for vulnerable people
- Job opportunities created

- The site is fairly self-contained
- Gradual development phasing is impressive
- Good example of social enterprise
- Visionary for future but sympathetic to historic surroundings and buildings

The submitted Community Involvement Statement sets out the public consultation and engagement undertaken by the applicants prior to the submission of the application. This comprised two phases Nov/Dec 2021 and Jan/Feb 2022 of preview events for stakeholders and public sessions with display boards, and project team members present to answer one-to-one questions. A website was launched and received 622 visitors up to April 2022. In addition, the Crownhill Rise pedestrian link was removed from the proposal following a public meeting held on 8<sup>th</sup> November 2022 in response to objections to that aspect of the application.

The application went to Design Review Panel on 7<sup>th</sup> April 2022, which considered and recommended on the topics of arboricultural detailing, heritage assets and treatment, pedestrian and cycle connections, car parking strategy and treatment, wildlife corridors and biodiversity, core village green amenity area, pedestrian flow through the site, proposed architectural elements and climate change challenges.

### **Summary of Consultation Responses**

Torquay Neighbourhood Plan Forum: objected to Crownhill Rise pedestrian link, community hall and insufficient parking on site likely to cause overspill parking into neighbouring roads. Concern over impact on Crownhill Rise being used for overspill parking. Concern over water run-off in view of extra areas to be built on.

Arboriculture: Loss of category A, B Trees would impact local and immediate landscape. Loss of screening trees would impact longer distance views. Replacement planting needs to be carefully considered and provide long-term succession to maintain the wooded/verdant nature of hilltop site. Species selection to include diversity, resilience, age range, biodiversity etc. Revised Tree Overview plan (350C) in principle species selection is suitable. Greater detail required. No objection subject to statement covering the selection, transportation, planting spec. and establishment regime over 5 years. an Arboricultural Method Statement is required for the trees shown in orange.

Highways: Sought removal of Crownhill Drive foot/cycle connection. Also sought segregated route for pedestrians and cyclists along the regress to Shiphay Lane, a highway safety assessment (to include consideration of a barrier, lighting and visibility splays), a pedestrian crossing on Shiphay Lane, improvements to driveway from Avenue Road (passing Places), sustainable transport contribution or securing provision of electric shuttle bus (via S106), and a Travel Plan (via S106). The levels of parking provided were considered acceptable.

Re-consultation response (following removal of Crownhill Rise link from the proposal): Road Safety Audit required for egress to consider whether a barrier, to the

embankment is required for pedestrians. This is required prior to determination. A contribution to a pedestrian/cyclist (toucan) crossing sought at Shipway Lane is sought to encourage Active Travel (s106) a Road safety Audit is requested to ascertain a proportionate contribution. Objection until Road Safety Audit submitted.

Estates/TDA: No objection

Devon County Council Ecology: Sought further information on bat surveys and relocation strategies. Further details for replacement trees and BNG metric required before determination. BNG...Recommended conditions securing mitigations recommended in the Environmental Assessment Report, a CEMP, a LEMP. Response on Biodiversity Net Gain Metric to be provided prior to Committee.

Network Rail: No objection in principle. Applicants advised to engage with Asset Protection a minimum of 3 months before works start with regards to Drainage, Foundations and Ground Disturbance.

NHS Primary Care: Currently there is sufficient GP capacity in the catchment area to absorb the population increase of this development. Future applications may result in a review of this situation (an estimate of 580 per dwelling is estimated). S106 contributions not sought at this time.

Community Safety: No objections subject to a condition requiring a Construction/Demolition Management Plan.

Waste: No objection. Recycling and waste will largely be commercial waste and Rowcroft Hospice will have their own arrangements. The 40 Assisted Living units may be able to use the domestic waste collections. Not sufficient information submitted to judge if these are adequate for the number of dwellings. SWISCo will only use adopted roads unless indemnified against damage to road and vehicles. Request waste contributions 170GBP per dwelling.

South West Water: No objection subject to foul and surface water being managed in accordance with the submitted drainage strategy. All ponds must be lined to prevent ingress of ground water. It is not permitted to discharge construction site surface water into a public sewer. SW Water is able to provide clean potable water and foul sewerage services to the site. Surface water run-off should be via SUDS.

Drainage: Infiltration tests show that soakaways are not feasible on the site. Controlled Discharge to strategy is proposed. Further details are required of pipes and hydraulic model, the three attenuation pools and outfall pipes. Consistency of manhole cover sizes and levels is required. Infiltration testing for permeable paving is required and the drainage designed accordingly.

Further details were submitted.

4.11.2022: No objection provided the surface water drainage is constructed in accordance with the latest surface water drainage drawings and hydraulic design,

Archaeology: No objection. The submitted Heritage Statement and Archaeological Assessment have identified the local significance of the undesignated historic buildings on the site and also some potential for archaeological evidence from earlier periods to be exposed by groundworks. The impact of development upon the historic buildings, including the air raid shelter, and the archaeological resource here should be mitigated by a programme of archaeological work that should record the historic buildings that are to be affected by the development, and any archaeological evidence that will otherwise be exposed and destroyed by groundworks. Recommends a Written Submission of Investigation be secured by pre-commencement condition. Recommends recording of historic buildings, trial trenching or monitoring and recording of ground works and further dependent on results. Results shall be reported and deposited.

Devon and Cornwall Police: No objection. Recommended conditions over secure boundaries to the site and nursery and CCTV on all exit routes from the site. Clarification sought over depth of basin and boating lake, steepness of banks and perimeter boundaries, management of access to gardens and how to proceed with Secured by Design. Recommends design advice and requirements for the Nursing/Care Home, the Assisted Living and the Nursery.

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

#### **Planning Officer Assessment**

- 1. Principle of development**
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#### **Statement on Human Rights and Equalities Issues**

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

The proposal includes the following elements: hospice expansion, visitor lodges for relatives of hospice residents, a care home with speciality dementia care, assisted living units and, a nursery and community facilities. The proposals would provide care facilities and create additional employment opportunities with a wide range of skills. Overall, Policy SS4 of the Torbay local Plan supports development of employment space in the healthcare sector. The various elements are considered separately below.

##### **Hospice**

Policy SC1 of the Local Plan requires all development to contribute to improving the health and well-being of the community, reduce health inequalities and help to deliver healthy lifestyles and sustainable neighbourhoods proportionate to the scale of the proposal. The Policy requires applicants to demonstrate that they have had regard to the following:

1. Consideration of the opportunities available to address the causes of ill-health in the local area;
2. Promotion of healthy, safe and active living for all age groups, including healthy living options for older people; and
3. Improvement of access to medical treatment services, including the provision of healthcare clusters where appropriate.

The hospice currently provides end-of-life care for approximately a third of people in the Torbay area who require it. The proposals to refurbish and extend the hospice palliative care accommodation to provide two additional beds (14 in total) would make a small contribution to meeting unmet need for this type of care and would significantly improve the quality of the care environment for residents and staff. It would result in patients having individual rooms instead of shared wards, access to outdoor space and a roof viewing area. The reconfiguration and extension of Main House would also provide a base for the Home and Community Team services, enabling expansion of that service, and rehouse the outpatient services.

These elements of the development are considered to meet the third criterion of Policy SC1 in providing health care to support the local community in Torbay. Therefore, in principle, this element of the proposal is supported.

#### Visitor Lodges:

The submission proposes 3 guest lodges to provide accommodation for family and visitors to hospice residents. The lodges would be detached 2-storey, 2-bedroom units in the undeveloped south east part of the site. These would be an ancillary supporting facility for the hospice. The principle is acceptable subject to restriction of occupation for that purpose, impacts on neighbouring amenity and design/appearance. Parking would be provided in the general car park to prevent the need for hard-surfaces in this part of the site.

#### Care Home

The application proposal includes a 60-bed care home arranged in 3 clusters: each comprising 2 houses of 10 units (total 20 rooms each). The Care Home is intended to provide dementia care.

Policy H6.3 of the Torbay Local Plan sets out that Care Homes will be supported where the following criteria are met:

- (i) clear evidence of need is provided with the development proposal;
- (ii) they are accessible to facilities and public transport;
- (iii) they will not harm the creation or retention of mixed and balanced communities;
- (iv) they will not add undue pressure on local healthcare or social services; and

The submitted Planning Statement and Assessment of Need documents set out a calculation of requirement for local provision in the current situation and in the future

and predict a need for between 106 and 295 bedspaces in specialist dementia care homes by 2030 in addition to an existing shortfall in provisions of 242-675 spaces. This situation is supported by the comments of Healthcare providers in the area and is based on the “Identifying the need for specialist housing in Torbay” 2016 report. The proposal would make a contribution towards providing for the identified local need and, as such, meets criterion i). The proposal includes 3 ancillary commercial units for residents’ use such as shop, hairdresser etc. and a café/restaurant with plaza., which goes towards meeting criterion (ii) (180 sqm + 293sqm at lower ground level)). The submission also proposes a travel plan to improve access to the site, which is assessed under the Highway and Access section of this report.

The hospice and care home would cater for people from the local area who either already need the services or may need them in the future. Consequently, it is considered that the proposal would not adversely impact the balance of the community in the local area.

The proposed Care Home would be unlikely to increase pressure on healthcare providers outside the site as it would provide those services itself.

Therefore, the principle of the Care Home is acceptable with regards to the Local Plan Policies, subject to accessibility matters.

#### Nursery

Policy SS11 of the Torbay Local Plan supports developments that enable access to local services and contribute to the success of the local labour market. The proposal is for a 37-place nursery with half the places being filled by children of staff employed on the site and half by other people employed off the site. The proposed use would support working parents/carers in providing day care. The provision of on-site childcare was supported by staff of the hospice during pre-application consultations undertaken by the Hospice. The provision of further space for people who work off the site would provide a facility for the surrounding community. The nursery would also provide some employment opportunities in the local area. In principle this element of the proposal is in accordance with Policy S11 of the Torbay Local Plan.

#### Village Hall

Policy SS11 of the Torbay Local Plan supports developments that enable access to local services and contribute to the success of the local labour market. The proposal includes a village hall space below the village green. This would be accessed from an external path and by an internal lift from the village green café.

#### Assisted living

The submission includes provision of 40 “Assisted Living” units that would have restricted occupation to people aged over 65 years old and subscribing to a package of health care support provided from the site. Thus, this element of the proposal falls within the broader category of Extra Care, which can be considered to be within use class C3b) or C2, and for which there is also a projected increase in demand.

Relevant Policies include the Council’s Strategy for Housing in Later Life, Policy H2 (Affordable Housing) and SS11 (Sustainable Communities) of the Torbay Local Plan 2012-2030.

Policy H1 of the Torbay Local Plan states that proposals for new homes within the built-up area, will be supported subject to their consistency with other policies within the Local Plan. The proposal would therefore comply with Policy H1 of the Torbay Local Plan. It is noted that the Council is currently falling short of its 5-year housing land supply and that the proposal would make a contribution to this shortfall being addressed. The tilted balance in favour of sustainable housing development, as set out in paragraphs 11 to 14 of the NPPF, therefore, applies unless the adverse impacts of allowing the development would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF taken as a whole. Of relevant to this site are the impacts on heritage, design, landscape and transport.

The site is within the built-up area and the assisted living proposals could help to address the need to provide a range of homes and contribute to housing delivery. This is subject to, inter alia, the living accommodation being adequate, the provision of supporting facilities, the maintenance of amenity for neighbouring occupiers and provision of adequate access.

Policy H.2 states that “In order to secure additional investment in disadvantaged areas of Torbay, the Council may agree to a reduction, or zero provision, of affordable homes on sites in those areas. Development of such sites will be expected to provide significant benefits to the creation of more sustainable, balanced communities as assessed against the criteria in Policy SS11”. The application site is not in a designated Community Investment Area but is close to locations identified as having poor living environments in the 2015 Index of Multiple Deprivation in Torquay’s Shiphay and Torre areas.

Policy S11 supports development that closes the gap between the most and least disadvantaged neighbourhoods. It requires development to help to create cohesive communities within a high quality built and natural environment where people want to live and work. Proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

The relevant criteria are:

1. Meet the needs of residents and enhance their quality of life;  
The proposal has been designed with the needs of residents in mind with on-site facilities for daily needs, care, entertainment and exercise (notably in Rainbow House and the wider landscape/garden setting). This is acceptable subject to these provisions being secured by conditions.
  
3. Help to develop a sense of place and local identity;  
The range of elements including the village green, restaurant, village hall and landscaping aim to provide a distinct sense of place in the centre of the site for use by all residents. This is acceptable subject to these provisions being secured by conditions.
  
4. Promote social inclusion, and seek to eliminate exclusion based on access to housing, health, education, recreation or other facilities;

The range of elements including the Village Square, restaurant, village hall and landscaped gardens around the Assisted Living units aim to provide an inclusive environment for the future occupants. This is acceptable subject to these provisions being secured by conditions.

5. Help reduce crime and fear of crime;  
The Devon Police has commented on the Secured by Design elements of the proposal. A scheme for the security of the site can be required by conditions and this is recommended.
6. Support local food production and consumption;  
The proposal includes allotments for the use of residents and other users of the site and regular horticultural based projects for residents in association with. Appropriate timing of provision of the allotments can be secured through a phasing condition.
7. Create a well-connected, accessible and safe community;  
This is considered under the Highways and Transport Section of this report and found to be acceptable subject to conditions and S106 obligations to secure improved access routes for non-car modes of transport.
8. Protect and enhance the local natural and built environment, where appropriate through planning contributions;  
The visual and landscape and biodiversity elements are considered under the relevant sections of this report and found to be acceptable subject to recommended conditions to secure retention and mitigation measures.
9. Deliver development of an appropriate type, scale, quality, mix and density in relation to its location; considered under the relevant sections of this report and found to be acceptable subject to conditions to secure implementation in accordance with proposals.
10. Contribute towards any additional educational or training needs including the promotion and negotiation of local labour training arrangements, placements and apprenticeship schemes;
12. Enable people to have access to local services to meet their day-to-day needs including open spaces, community halls (or rooms), play areas, leisure and recreation facilities and allotments;  
See comments under criteria Nos 1, 3 and 4 above.

The submitted Planning Statement, plans and documents identify how the proposal would provide benefits that meet these criteria (ancillary facilities e.g. communal health and exercise rooms, entertainment space, shops, café, nursery, village green and village hall). Timely provision of these benefits can be secured through a phasing plan to be secured via a condition. A S106 obligation is recommended to restrict occupation to those in the specified age group and subscribing to the Care Package provided by Rowcroft, giving priority to those with a local connection. Subject to these provisos, the proposal is considered to comply with Policies S11 and H6. In addition,

it satisfies the criteria in Policy H2 to compensate for the absence of affordable housing provision on the site.

Policy H.6 sets out that the Council will support measures to help people live independently in their own homes and to live active lives within the community, subject to other Policies in this Plan. Policy H.6.1 requires a proportion of homes to be capable of adaptation for people with disabilities (5% of units should be compatible with Part M4(2) of the Building Regs). If the residents are likely to have mobility restrictions or particular health needs, the proportion should be higher. Paragraph 6.9 of the Planning Statement states that the units are designed to beyond M4(2) Cat 2 accessibility standards. This can be secured by Condition

Policy H.6.2 supports new sheltered housing (within Use Class C3) where it is within easy reach of community facilities, shops and public transport. The pedestrian/mobility buggy/wheelchair movement connections between the units and on-site facilities have been developed through the progress of the application. Connections to other local facilities will need to be developed through a Travel Plan including consideration of sustainable transport options and are assessed in the Access and Highways Section of this report.

This Policy also sets out that the Council will seek financial contributions via s106 Planning Obligations to meet likely local healthcare and social service costs arising from care facilities and sheltered accommodation, (GP surgeries and in-home care from organisations other than those provided by the site) unless applicants are able to show that this contribution would not be appropriate. The NHS has commented that at present there is not a shortfall of Primary Care Services in the vicinity and that S106 contributions to Primary Care are not required at this time. However, they reserve their position with regards to future applications for this element should the situation change and advise that they may seek contributions based on a rate of £580 per new unit through a S106 Agreement.

### Summary

The proposal for the hospice extension and care home and the supporting facilities are acceptable in principle, further to Policies of the Torbay Local Plan and Healthy Torbay Strategy.

The provision of a village hall, ancillary restaurant and nursery are for the benefit of site occupiers, the surrounding community and staff working at the site.

The Assisted living Accommodation is supported in principle by Policies SS11 and H6 subject to restrictions on occupation to those subscribing to a care package provided by Rowcroft and suitable phasing/provision of ancillary facilities.

The proposed uses are, therefore, in accordance with Policies SS4, H1, H2, H6, SS11 and SC1 of the Torbay Local Plan and Torquay Neighbourhood Plan.

### **Economic Impact**

Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan states that development should reinforce Torbay's role as a main urban centre and premier resort.

Policy SS4 (The economy and employment) supports the regeneration of Torbay and improvement in its economic performance, with the aim of achieving a step-change in economic prosperity as set out in Torbay's Economic Strategy. The Local Plan supports existing businesses; it encourages new businesses and investment into the area in order to create new jobs; and it promotes the expansion and diversification of the economy of the Bay.

Policy SS11 (Sustainable communities) explains that proposals that regenerate or lead to the improvement of social, economic or environmental conditions in Torbay will be supported in principle.

The proposal will create jobs during the construction period. The proposed staff increases within the hospice, care home, nursery and ancillary buildings (will also support jobs. This would also generate a range of additional jobs and revenue such as food and drink suppliers, materials, care providers etc.

As discussed previously, Torbay cannot demonstrate a 3 or 5-year housing land supply, and therefore significant weight is given to the provision of additional housing. The application proposes 40 Assisted Living apartments. The demonstrated economic benefits of new housing and care sector uses are a material factor in this respect.

Given that the proposal would create new jobs and is expected to generate additional spend within the local economy, it is considered that it complies with the aspirations of Policies SS1, SS4 and SS11 of the Local Plan, and would bring economic benefits to the Bay.

### **Visual and Heritage Impacts**

With regards to design, the National Planning Policy Framework (NPPF) requires good design to create better places in which to live and work and to make development acceptable to communities. Developments should be well-designed and 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 extensions 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 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.

In relation to heritage, the National Planning Policy Framework (paragraphs 199 - 204) requires great weight to be given to the conservation of heritage asset. Any harm requires clear justification and any proposals resulting in substantial or less than substantial harm need to be outweighed by public benefits of the proposals. Paragraph 203 states that, in weighing applications that directly or indirectly affect

non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

Paragraph 204 requires local planning authorities to not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred. This paragraph also requires developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible

Policy SS10 of the Torbay Local Plan requires developments to sustain and enhance buildings and other features which make a contribution to Torbay's heritage and natural setting in proportion to their significance.

The site is just beyond the boundary of Torre Conservation Area and separated from it by the steep curved driveway. The site contains no statutorily designated heritage assets. However, the site is significant for the social and local historical connections with Wills and Rowcroft households. The buildings are non-designated heritage assets: Main House, Mildmay Stable Block, Rainbow House, a WWII underground bunker and some garden features. Their significance is described in the submitted Heritage Statement.

#### Impact on Main House

The proposal involves removal of single storey side extensions and the two storey rear extension and paring back to the original two storey building with rooms in the pitched roof and a roof-top viewing platform and turret. The building is finished in local materials: grey stone and red quoin work with a red tiled roof.

The retained building would provide office and reception space for the Hospice Charity. The remaining architectural and decorative features (fireplace, ceiling rose, cornice) would be retained. It is recommended that those features worth retaining be identified and recorded in a Building Record, which can be secured through a condition.

The proposed extension to the building comprises a two-storey rear extension with rooms in the roof to provide office space for the Rowcroft Hospice, Outpatient Unit at ground floor and kitchens and café for staff and visitors. This would have a quadrangle in the centre. The roof would link into the main house roof with aligned ridge and eaves levels and size and with a style of windows and dormers that replicate/reflect those of Main House. The proposed external materials are not confirmed. Details of the external materials can be secured by condition and this is recommended).

The new In-Patient Unit (IPU) comprises a flat-roofed side extension to the south at ground and lower ground levels to provide new hospice accommodation laid out with 14 individual rooms, communal living areas and lifts to a roof viewing area. The lower ground floor would comprise plant and servicing and lift access from the

patient arrival and drop-off point on the south side. This would make use of the changes in land levels in this part of the site together with some excavation. The finished floor and ceiling levels would relate to those of Main House and the pattern of the ground floor windows would be replicated. The building would be set back from the frontage of Main House by approximately 27m. It would be lower in height and, given the extent of set-back, would recede from and would not interfere with or overwhelm the impressive façade of Main House. The depth of the building 45m to the rear would be substantial however this elevation (south east) would be seen from an oblique angle from the main driveway and would be set against the woodland backdrop and partly screened by the proposed landscape and planting proposals (see Landscape section below).

The proposed external materials for the IPU are shown on the proposed bay study (Drawing Number BA9546-2112A) as pale grey brick, with textured recessed panels and window surrounds and projecting courses between floor levels, bronze aluminium window and canopies and bronze aluminium standing seam at roof level. The materials for the rear extension to the main house have not been specified. Details/samples of the external materials can be secured through a condition and this is recommended. The sedum roof is proposed to house photovoltaic (PV) panels set behind the parapet roof. It is recommended that details of the PV panel proposals are secured by condition prior to above ground development of the building being commenced to ensure they are of a height that can be appropriately screened by the parapet.

A small detached, single-storey building to the rear on the north side would provide a laundry and substation. The proposed external materials are not confirmed. Details of the external materials can be secured through a condition and this is recommended).

The proposals are considered to be sympathetic to the original house and provide the opportunity to enhance the façade and setting of Main House, subject to the landscaping proposals and quality materials.

#### Care Home impact on setting of Main House:

The proposed Care Home buildings would have a conventional shape and design to create a domestic terraced feel. The buildings would be two-storey with ridged roofs with pitches to the outer sides and some flat areas for sedum and pv panels to the inside of each courtyard. The layout has been designed in consultation with Rowcroft staff and following visits to other exemplar care homes with the quality of life for future residents and practical care considerations for staff taken into account. The resulting layout provides three horseshoe shaped houses with courtyard gardens securely separated from servicing and parking areas to the rear.

The three Houses would face onto the village green: Houses 1 and 2 face north east and house 3 faces south east forming a continuous L-shaped frontage with planted front garden areas. The L shape layout would contain the restaurant garden and

village green giving a self-contained feel to the central are of the site. Ancillary shop/hair salon and music room would be located in the centre of the north east elevation and be connected to the restaurant by a covered canopy and walkway.

With regards to the relationship with Main House, the care home building would be lower in height: (5.7m to eaves and 8m to the roof ridge) compared to in Main House (1.3m and 3m lower respectively). The closest part (rear corner of House 1) would be set 10m away from the north east front corner of Main House separated by the service road leading to the rear of the Care Home.

The proposed materials (shown in Drawing No BA9546-2305Rev A) would reflect those of the walls of Main House: grey in colour but brick instead of stone. These would be mid-grey at ground floor and pale grey at first floor with red brick detail over main doors and reconstituted stone panels around windows. Railings to balconies and canopies and window frames would be a bronze-toned aluminium.

The internal floor of the Care home would be level and to achieve this the ground level would be excavated in places. This results in the building being set down on land slightly lower than Main House.

Main house would remain the key building on the southern part of the site in terms of position, height, palette of colours and feature roof. However, as the land levels will be altered as a result of the development, it is recommended that finished levels for the floors and roofs of the new units are secured through a condition to ensure a satisfactory relationship with Main House when constructed.

#### Impact on Mildmay

The stable/coach block in the centre of the site was built in an Arts and Crafts style in cream render, clay tiled roof and timber windows and door frames. It has been extended and the courtyard infilled. The building has been much adapted and retains no identified internal features of significance. It would be demolished. This represents a loss of a non-designated heritage asset. The nearby music room would also be demolished together with the estates workshop. NPPF policy requires LPA's to take all reasonable steps to ensure the new development will proceed after the loss has occurred. The Planning Statement sets out that the third phase of the care home would be positioned in this area. Its implementation can be secured by a condition securing a phasing plan.

#### Impact on Rainbow House

This building is not statutorily listed at present. However, it makes distinctive use of local materials and has a landmark roofscape of copper cladding with turrets on the front elevation. The front elevation of the roof can be seen from some distance to the south and east, particularly in winter.

The proposals involve conversion of the roof space to provide 2 apartments. This includes insertion of rooflights and dormers in the roof. This element of the

proposals has been revised to reduce the number of dormers and to avoid any in the front roof plane or around the turrets. The dormers are considered to result in a “less than substantial” harm to the appearance of the non-designated heritage asset.

Some internal spaces of Rainbow House would be re-configured and patio doors and windows introduced on the northeast and southeast side elevations. These are not characteristic features of the existing building. However, their positions have been selected to not impact the facade of Rainbow House. Details of the proposed materials can be secured by condition to ensure they are reflective of the painted timber materials of the original house.

The proposed Assisted Living Units would be built in a modern style, in three blocks part two part three storeys high with flat green roofs. Proposed materials are pale grey brick with textured stone and brick banding at ground floor, brick header columns at second floor, bronze aluminium window frames, bronze railings at first floor and green copper recessed panels, brise soleil and railings at second floor. These would be positioned in the area currently called the Orchard.

The two-storey Cottage Block is approximately 10-12m distance from the rear of Rainbow House set down behind the historic wall with the roof height just below the eaves level of Rainbow House.

The three pavilions would be connected at ground floor level and set behind the retained stone orchard wall. These would be two-storey with recessed third storeys with flat green roofs with a modest parapet. The roof of the two-storey element would be 7m high and has been designed to sit below the eaves of Rainbow House and the third-floor roof (10m) set below the ridge of Rainbow House’s main roof by 1.7m. The nearest two-storey block to Rainbow House (Pavilion 1) would be 13m away to the north and the three-storey element 17m away. Pavilion 2 would be over 30m from the north eastern end of Rainbow House and Pavilion 3 would be further to the north, just over 50m away.

Given these heights and distances, the proposed layout and design are considered to be sufficient to not overcrowd Rainbow House’s rear elevation and to provide adequate outlook from the internal rooms of Rainbow House, which are orientated to face north east and south. However, as the land levels will be altered as a result of the development, it is recommended that finished levels for the floors and roofs of the new units are secured through a condition to ensure a satisfactory relationship with Rainbow House when constructed.

The additional doors and windows in Rainbow House and the change to backdrop from orchard to built-form would result in some harm to the non-designated heritage asset and its setting. This falls to be weighed against the public benefits of the overall development.

The Assisted Living Units (ALUs) would be set behind Rainbow House when viewed from outside the site. Subject to the retention of substantial tree screening the impacts would be acceptable with regards to longer distance views from outside the site (See Landscaping Section of this report below).

With the exception of a 6m stretch, the existing Orchard wall would be retained separating the existing Rainbow House from the proposed ALU buildings. The removed section would open up a vista and walkway between the ALU's and the reinstated lake.

Land behind (to the north) the wall would be excavated (by approximately 2m) bring it level with base of the wall. Methods for protecting and ensuring future stability of the stone wall can be secured through a condition.

#### Impact on Subterranean bunker

The history of the bunker is described in the submitted Heritage Statement. It was constructed early in WWII with an entrance to the rear of Rainbow House. The entrance to the bunker is set in the orchard wall and the structure (above and below ground) of the bunker would be retained but the bunker access would be closed off. The proposed buildings would not be positioned above it but the cottage and Pavilion 1 would face each other with the bunker layout replicated as a shared formal garden. This is considered to represent an enhancement of the significance of this concealed underground heritage asset.

#### Other garden features

Other features of interest are the remaining section of the stone kitchen garden wall, which is shown as retained adjacent to the proposed village hall and subterranean kitchen. Its retention is welcome. Further features of interest include the boat house and a small concrete fountain pool. These are indicated as being retained. It is recommended that details of the retention and protection of these features during construction phases and their final positioning are secured through a condition.

The County Council Historic Environment Team has requested that a building record be secured for the site to record the existing buildings, features and their condition. This is recommended to be secured through a pre-commencement condition.

Given that excavations are proposed in various parts of the site for lower ground floor levels, foundations, subsurface for hard-standings and roads and insertion of drainage features, there is potential for archaeological finds. It is reasonable to require a Written scheme of Investigation for the site through a condition. (See Waste Section with regards to excavated soil and waste)

The harms when weighed against enhancements would result in a less than substantial level of harm to non-designated heritage asset at the lesser end of the scale. It is considered necessary to impose the aforementioned conditions to limit the harms and to secure those identified enhancements.

The less than substantial level of harm falls to be weighed against the public benefits of the scheme. The public benefits include a significant contribution to provision of care facilities to address some of the acute shortfall in the existing supply of those facilities and for the future population of the area. On balance, these benefits are considered to outweigh the harms.

The proposal is considered to be in accordance with Policies DE1, DE5 and SS10 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

### **Landscape Character and Trees**

Relevant policies of the Torbay Local Plan are C4, C5 and SS9 Green Infrastructure Policy SS9 seeks to protect and provide high quality green space at a local level and mitigate for any loss of habitat and maintain existing and contribute to new tree planting and woodland creation.

Policy C4 sets out that development will not be permitted when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Where the loss of, or impact on trees, hedgerows or landscape features is considered acceptable as part of development, replacement and other mitigation measures will be required through planning condition or legal agreement. These measures should at least off-set any such harm, and preferably achieve landscape and biodiversity improvements, and make provision for on-going management. 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.

Policy C5 states that development within Urban Landscape Protection Areas (ULPAs), which includes the application site, 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.

### Summary of proposals

A full Tree Survey was submitted with the application and accompanied by an Arboricultural Impact Assessment and a series of Layout Impact Plans. The Tree Survey identifies 289 identified individual trees, groups of trees, woodlands and hedgerows.

The proposed Block Plan (Drawing No BA9546 – 2020 Rev B) sets out the framework for tree removal. In summary, approximately 107 trees will be removed, of which 14 are Category A trees, 44 are Category B, 42 are Category C and 7 are Category U. 42 Category C and B trees would be transplanted within the site.

Category A and B trees would be removed in the centre of the site (evergreens and deciduous) to accommodate the revised layout for the spine road, arrival square and

the nursery (Phase 1). A few large specimen trees would be lost in the south part of the site to accommodate additional car parking and a new access route to the new IPU lower ground level. Category A and B trees and elderly fruit trees would be removed to accommodate the Assisted Living Units in the northern part of the site. The woodland edges to the site boundaries to the west, south and north are to be retained. The majority of the mature trees on the driveway avenue would be retained.

They would also reduce the canopy screen when viewed from the east. Mitigation would be required

#### Long distance impacts

The site is edged by woodland. Given the density of mature tree cover from the west, north and south and subject to their retention (as proposed) and ongoing health, the public views from longer distances would not be noticeably affected.

Views from the east rely upon deciduous and evergreen screening by the tall trees on this side of the site. Site Sections drawing (045 rev a) show that the IPU, would be at a lower level than the Main House and screened by the retained trees on the driveway in the south part of the site. Main House and the kitchen garden area are screened by a variety of trees. Several smaller trees in front of Main House would be removed to open up the frontage and improve the function of the main arrival space.

The loss of canopy screen of the area for the proposed care home/nursery will require mitigation with new tree planting of species that grow to a good size to provide screening of the new two storey building blocks.

The roof of Rainbow House can be seen from Tor Hill above the site trees, particularly in winter. The submitted Townscape and Landscape Visual Assessment contains associated predicted views, which demonstrate the screening provided by the existing tree canopies on the eastern slopes of the site. The existing row of tall Norway Spruces and a group of Monterey cypresses provide valuable year-round screening of the north end of the site. The retention and long succession of these groups is necessary to continue adequate screening for the proposed developments to the north of Rainbow House (Assisted Living Units) on the highest part of the site.

Removal of trees to the north of Rainbow House to make way for ALUs involves some large A and B Category trees. However, a substantial number of large trees are proposed to be retained, which would provide a backdrop to the ALU's.

A few trees on site are young and small, they are proposed to be translocated within the site and this is proposed for mainly (41) Category C trees and 1 Category B tree.

Detailed planting schemes and method statements for the replacement trees will be required to ensure adequate screening and succession. These can be secured through conditions and this is recommended.

#### Landscape Impacts Within the site.

The landscape within the site would be considerably affected by the proposed building works and car park provisions. As such, the character and appearance of the internal landscape of the site would be changed.

The losses in the centre of the site to the front of Main House and within the central plateaux would be noticeable within the site itself. The amount of building would reduce the amount of open green areas on the site, many of which are semi-natural and provide green and restful spaces for moments of contemplation and relaxation. However, some of these areas are not easy to access. However, the proposed development of the site presents an opportunity to define the function of these spaces and to increase their accessibility for future users.

The proposed developments involve excavations of the ground in all phases: the nursery and village hall in phase 1, the lower levels of the new IPU in phase 2 and the level of ground in the Orchard in Phase 3. The proposals in the first two phases would exploit natural changes in levels within the site to create single aspect buildings in order to minimise their impact on the landscape. The village hall and nursery would have green roofs to reduce their visual impact and provide amenity spaces. It is anticipated that some of the excavated materials would be reused within the site. However, details of how waste generated by excavations and tree removals will be managed can be secured through a condition.

#### Proposed Landscaping Schemes

The proposed landscaping scheme includes planting of 125 trees. The locations of the replacement trees are shown on the amended Tree Planting Overview 350 Rev C. This proposes 57 large (12m+) specimen trees and 34 conifers across the site to the south car park, along the new spine road and to supplement the woodlands. It also includes planting of specimen trees to frame the arrival area in front of Main House.

A further 34 smaller trees would be planted around the buildings and in garden areas. The six area planting schemes (Drawings 301, 302, 303A, 304, 305 and 306) show general areas for planting of the smaller trees, shrubs, perennials and bulbs to enhance landscape within the site.

The proposals include retaining those trees that provide strategic screening from the longer views and supplementing woodland planting together with an extension to the avenue of large trees along the new spine road.

The scale of proposed replanting and enhancement is intended to secure succession overtime of the green appearance of the site, which is achieved by large canopies and formal and informal green spaces. In addition, the gardens and greens would be positioned where they are easily accessible and would be convenient for use by the occupants of the site.

Care has been taken to select plant species that would be suited to a changing climate to securing the long-term health and resilience of the site-wide tree collection. This is considered to be a positive enhancement in terms of the character

and appearance of the UPLA in the urban context in the longer term. However, this is subject to securing the details of planting in each phase of the development.

The Arboricultural Officer has commented that the scale of loss of category A, B Trees would impact the local and immediate landscape. Loss of screening trees would impact longer distance views. Replacement planting needs to be carefully considered and provide long-term succession to maintain the wooded/verdant nature of hilltop site. Species selection should include diversity, resilience, age range, biodiversity etc. The species selection shown on revised Tree Overview (Drawing No 350Rev C) in principle is suitable. Greater detail is required and a statement covering the selection, transportation, planting spec. and establishment regime over 5 years. In addition, an Arboricultural Method Statement is required for the trees shown in orange.

Subject to conditions requiring details (of location and species for new tree planting, method statements, tree protection for retained trees and Method Statement for trees marked in orange on Plan 350Rev C) and implementation, the proposed approach accords with Policy C4 (Trees, hedgerows and natural landscape features). The loss of trees is only considered acceptable subject to replacement planting (in type, extent and scale) adequate to off-set harm and to achieve long term landscape improvements.

Measures would alter the UPLA character but provide enhanced setting for the hospice and care facilities and renew the tree stock for long-term succession, which represents an enhancement.

The ongoing management of the trees within the landscape can also be secured through a LEMP, to be approved by planning condition.

### **Impact on Residential Amenity**

Paragraph 130 of the NPPF requires developments 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 for neighbouring occupiers. Policy THW4 of the Torquay Neighbourhood Plan seeks an amenity space provision for residential units of 10sqm per flat provided as private space or communal space.

### Future Occupiers

The proposed accommodation in the Care Home and In-Patient Unit and Out-Patient facility are intended to provide a very high quality of accommodation for people with specific needs. The proposals have been developed with care and health support as a key priority.

The IPU would replace shared wards with spacious individual rooms to provide privacy for the residents and their visitors. Each room would have access to a patio area with landscaped outlook and a central lift would provide access to the rooftop viewing area.

The Care Home also provides individual rooms for residents with level floors and lift access to the first floor. The ground floor rooms would have small patios contained by hedging and some of the first-floor rooms would have balconies. Shared secure courtyard gardens are also proposed together with communal lounges in each house and supporting facilities for residents and their visitors.

The Assisted Living Units would each have adequate floor area to meet the Nationally Described Space Standards (50sqm GIA for one-bedroom units and 70sqm for two-bedroom units). All floors are served by lifts. The ground floor units would have patios, first floor and second floor units would have balconies ranging in size from 5sqm to 15sqm or use of a shared roof terraces. At first floor level a shared roof garden with a small games area would be provided. The amenity space provisions are considered to be adequate given the scale of proposed formal and informal landscaped gardens in close vicinity of these units.

Intervisibility distances between the flats in the Assisted Living Units are 17+m between facing windows. The exception being at the second floor where one flat in Pavilion 3 has a south elevation kitchen window 14m from the living and bedrooms of a flat in Pavilion 2. It is recommended that this obscure glazing be secured by condition for this window.

#### Neighbouring Occupiers

The neighbouring residential properties around the site are screened by the existing boundary planting. To the west the changes in land levels are dramatic and the nearest houses in St Peters Close, Ben Johnson Close and Wordsworth Close are at a considerably lower level than the proposed new buildings. The woodland along this boundary is to be retained. Consequently, there is not likely to be a significant adverse impact on those residents in terms of day and sunlight, outlook, overlooking and privacy.

Similarly, to the north and south, properties in Fletcher Close and Blindwylle Close are not likely to be significantly impacted subject to the retention of the existing boundary treatments and trees along the boundary as proposed.

To the south east the properties in Birdshaven back onto the south of the site but are some 30m distant from the boundary. The proposed estate workshop would be located approximately 9m from this boundary at its nearest point. The south elevation would be one storey high and contain no windows or doors and would not give rise to significant adverse impact on residents of Birdshaven.

The visitor lodges proposed to the east of the driveway would be 30m from the rear of the flatted properties in Crownhill Court in Crownhill Rise. The lodges would be on land higher than Crownhill Court but the windows would face north and south and not overlook the eastern boundary. In addition, the line of mature boundary trees would be retained and maintain adequate screening to not significantly affect intervisibility or privacy levels and amenity levels of Crownhill Court.

Properties located along the shared driveway from Avenue Road may be affected by increased traffic during construction. The Highway Authority has requested construction of passing place along the drive due to increased vehicle trip generation (See Highways Section of this report). Properties in Pilmuir Avenue are close to this drive way and could be affected by the increase in traffic during construction. The Community Safety Team have requested a Construction Management Plan (CMP) for the development. A condition securing a CMP is recommended in order to control, inter alia, the timing of deliveries and impacts of construction activities.

Subject to the recommended conditions, and given its siting, scale, and design, it is considered that the proposal would not result in any unacceptable harm to the amenities of neighbours. The proposal is considered to be in accordance with Policy DE3 of the Local Plan and Policy THW4 of the Neighbourhood Plan.

### **Access, Impact on Highway Safety and Parking**

Policy TA1 of the Local Plan seeks sustainable transportation with priority for travel by foot, cycle, public transport, and other sustainable means (e.g. car sharing and low emission vehicles). It aims to improve road safety and minimise conflict between road users. This seeks connectivity for footpaths, cycle routes and bus services. Policy TA2 of the Local Plan states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 and Appendix F of the Local Plan states the minimum dimensions for parking spaces, including garages. Policy TH9 of the 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 resulting from the development.

### Highway Access and Site Connectivity

#### Location:

The application site is within Torquay's built-up area. The main access/egress is from Avenue Road via the drive (400m) that is shared with a few residential properties. A secondary egress, on non-highway land, runs from the north end of the site to Shiphay Lane. Avenue Road is served by several bus routes and Torre train station is 1/2 mile away, by road.

The National cycle route from the Bay to the Hospital runs just outside the eastern boundary of the site but does not link into the site, which is on land approximately 50m higher. The cycle route joins the egress road as a joint pedestrian and cycle way for a 200m stretch to Shiphay Lane.

#### Vehicle Trip Generation:

The development proposals would result in an increase in the number of trips of people arriving at and leaving the site by vehicle; staff, deliveries, visitors and residents' day-to-day trips.

The submitted Transport Assessment identifies the estimated increase in volume of trips as 39 in morning peak and 36 in the evening peak, generated by the Care Home (33%), the nursery (50%) and Assisted Living (17%). The Assessment asserts that the existing road network is able to adequately serve the development for vehicles. This is agreed with the Highways Authority subject to some improvements to the driveway with the provision of passing places (in accordance with Technical Note 19772-HYD-XX-XX-RP-TP-1001\_P01) to ease the flow of two-way traffic to and from Avenue Road. This provision can be secured by a condition and this is recommended.

#### Non-Car Trips:

The Transport Assessment also identifies the need to provide for improved access for non-car modes and for people with disabilities. The original proposal included a pedestrian and cyclist link to Crownhill Rise. This was removed from the proposal following discussions with local residents, on the basis that it would be likely to result in increased traffic and parking in Crownhill Rise. The relevant plans have been amended to exclude that element.

The exit onto Shiphay Lane is identified in the submitted Travel Plan as providing an improved access and exit for pedestrians and cyclists. However, it is also an exit for vehicles and the surface is currently shared. The land between the northern boundary of the application site and Shiphay Lane is under Council ownership.

The Highways Authority has requested improvements to this route for pedestrians and cyclists based on the increase in vehicle trips using this shared surface once the Care Home and Nursery developments are occupied. The Highway Authority has requested a Road Safety Audit prior to determination of this application, in order to ascertain the design parameters (barriers, lighting, visibility splays) for the route and that this be provided prior to determination of this application. They have also requested a contribution to pay for the provision of a segregated surface and necessary design features. This can be secured through a S106 obligation and the route provided prior to first occupation of the Care Home. The level of appropriate contribution or improvement scheme is currently being finalised between the applicant and Torbay Council and this will be reported to Members pre-committee. Delegated powers are requested for Officers to agree the detail of this contribution and scheme based on the outcomes of the relevant Road Safety Audit/associated assessments.

The proposed route would end at Shiphay Lane after linking with the nation cycle and footway that connects Torquay Hospital with the bay. The Highway Authority has requested that a pedestrian and cyclist crossing facility (Toucan crossing) be provided at Shiphay Lane to encourage Active Travel. Highways have requested a contribution from the developer towards the cost of providing this facility based on the estimated trip generation. The contribution can be secured through a S106 obligation. The level of appropriate contribution or improvement scheme is currently

being finalised between the applicant and Torbay Council and this will be reported to Members pre-committee. Delegated powers are requested for Officers to agree the detail of this contribution and scheme based on the outcomes of the relevant Road Safety Audit.

#### Travel Plan:

The application was also accompanied by a site-wide Travel Plan (19772-HYD-XX-XX-RP-TP-6001), which proposes appointment of a Travel Plan Coordinator, provision of travel information packs for staff and residents, a wheelchair accessible private electric minibus service and a car sharing scheme. It also sets targets for modal shift over a 5-year period and annual review.

It is recommended that implementation and monitoring of the Travel Plan is secured through a s106 obligation. The Council Highways Department has requested that the shuttle bus be secured for the lifetime of the development or if not provided that a sustainable transport contribution be made to improve facilities in the vicinity. It is recommended that this is secured by a s106 obligation.

#### Movement within the site

The proposals segregate vehicle movements and pedestrian/mobility scooter routes within the site. The proposed buildings have been positioned to take advantage of the more level areas on the site. Footpaths linking the buildings and amenity areas follow the contours of the site, as far as possible, and where necessary are engineered to meet the Building Regulations for wheelchair access. Road crossing points are proposed to be designed to give priority to pedestrians with raised surfaces. Details of the proposed hard-surface treatments on the site can be secured through a hard landscaping condition and this is recommended.

#### Car Parking

Use	No of units/GIA	Standard in App F	Spaces required	Spaces proposed	
Hospice	14 beds	2.5 per bed	35	76+12=88	
Charity Offices	1,350sqm	1 per 30sqm	45		
Outpatients	2 Practitioners	1 +1=2	4		
Lodges	3	1 or 2	3-6		
Care Home	60 beds	1 per 8 beds	8	45	
Ancillary Restaurant/shops	sqm	N/A			
Nursery	37 children 5 staff	1 per 4 staff	2 Drop off - for 18 cars	3+18=21	

Assisted Living	40	1/5 or 1 per unit	8-40	22	
Total			123-158	176	
Care Staff shift-change overflow	Not specified			See above	
			123- 158+	176	

The total number of spaces needed has been estimated by the Transport Consultants (Hydrock) as 135 with an allowance for staff shift change-over of up to 176 spaces on the site.

Car Parking would be provided across the site in six areas:

1. existing main car park would be retained and expanded to 39 spaces with hard surface and additional 37 with grassed surface (total 76).
2. Arrival square to accommodate disability parking 10 spaces and 2 large minibus spaces
3. To rear of care home 22 spaces – 10 paired together with shared wider spaces
4. Nursery village hall – 18 road side spaces and three disability spaces
5. Care Home House 3 - 23 spaces to rear - 12 paired together with shared wider spaces
6. North of the site to rear of Assisted Living Units - 22 spaces

The allocation of parking spaces for each use is not shown on the submitted plans. It is recommended that a Parking Management Plan be secured by condition and reviewed regularly to clarify the demand for and allocation of spaces, particularly for the Assisted Living Units.

The Transport Assessment shows swept path analysis for parking areas 3 and 6 with turning heads that interfere with retained trees, landscaped areas and pedestrian routes. The position of bin stores and turning heads will require revision in these two areas to achieve a satisfactory layout. It is recommended that this be secured by condition.

Appendix F requires 10% of all parking spaces to be disability spaces, thus requiring 18 spaces to be provided on the site. 42 are proposed: 10 at arrival square, 3 at the nursery and the remainder spread through the parking areas behind the Care Home. This generously satisfies the requirements of Appendix F.

Appendix F also requires Electric Vehicle Charging Points to be provided at a rate of 20% of the spaces for flats. This is relevant to the Assisted Living Units. Details of where the electric vehicle charging points are to be located around the site can be secured by a condition and this is recommended.

Appendix F also requires space to be provided for cycle parking and storage of mobility scooters. The Travel Plan states that the proposed development would provide 80 spaces in total. Details of secure, weatherproof conveniently located

cycle parking for the hospice and care home at a rate of 1 space per two employees is required by the Policy. The Travel Plan in Table 2.1 proposes provision at a rate of 1 per 4 staff. The Travel Plan will need to be kept under review to assess the adequacy of this level of provision. Details of the proposed locations and cycle storage facilities can be secured through a condition. The Assisted Living Pavilions would provide a store at ground level for secure and weatherproof storage and charging for mobility scooters and cycles. The provisions shall be made at a rate of one scooter or cycle per unit. Details can be secured via a condition.

#### Conclusion on Access, Highways and Parking

The vehicle access and car parking proposals are acceptable subject to further details and phasing. The provisions for pedestrian movement within the site are also acceptable. Improvements to non-car access to the site have evolved over the course of the application. It is recommended that a Stage 1 Road Safety Audit is completed prior to determination of the application to inform the design of pedestrian and cyclist access improvements to Shipway Lane and that the resulting provisions and implementation of the Travel for the site are secured through a s106 agreement.

The proposed development, subject to the recommended conditions, RSA and S106 obligations is considered acceptable with regards to Policies TA1, TA2 and TA3 of the Torbay Local Plan and Policy TH9 of the Torquay Neighbourhood Plan.

#### **Ecology & Biodiversity**

NC1 promote biodiversity features, proportionate to their scale. Where there is an identified residual impact on biodiversity, proposals will be expected to deliver a net gain in biodiversity through the creation or provision and management of new or existing habitats. Policy TE5 of the Torquay Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. Policy DE1.8 requires developments to achieve a net gain in biodiversity, including tree and hedgerow planting and habitat creation.

The north eastern part of the site contains a designated Other Site of Wildlife Interest and the site contains many protected trees.

The application has been accompanied by an ecological survey report that includes a Phase 1 habitat survey of trees and buildings. The report findings stated that the trees, hedgerow and woodland provide habitats of local and site importance.

Recommendations are summarised below:

- Bats: emergence surveys undertaken, bats were not roosting in trees or buildings but common species are foraging and commuting along tree lines on site. External lighting to be designed to minimise light spill, ten bat boxes in buildings/retained trees, soft strip of trees with roosting potential
- Badger: measures in accordance with appropriate methodology as necessary

- Birds: clearance of vegetation and buildings where nesting features are present to take place outside nesting season, provision of nesting boxes (10)
- Reptiles and hedgehogs: presumed present - habitat manipulation prior to construction

The DCC Ecologist requested conditions to secure implementation in accordance with the recommendations in the Ecological Assessment, a CEMP for environmental protection during construction, a LEMP for management of habitat creation (bat and bird boxes and sett), a woodland management plan, and repeat badger survey.

A Biodiversity Net Gain Assessment (BNGA) has been undertaken using Natural England's latest Metric (3.1). The BNGA summarise that the proposals would result in the loss of modified grasslands, scattered trees and sections of hedgerows. New proposals would provide green roofs, wildflower and wet grasslands, ornamental planting, lake and attenuation ponds, native hedgerows and replacement trees (70% native). Management of these areas will be detailed in a LEMP. The report concludes that subject to the proposed planting being successfully installed, the overall BNG would be a 2.99% increase in habitat creation. The spreadsheet notes a 283% increase in Hedgerow units and a loss of approximately 7 Biodiversity units out of 47 through the tree removal proposals. This is mainly due to the time delay (over the ten years set out in the BNG metric) in achieving benefits when planting young trees.

Should planning permission be granted, the recommendations of the ecological report and DCC Ecologist and replacement planting should be employed through planning conditions. The proposal therefore complies with Policy NC1 of the Local Plan and Policy TE5 of the Torquay Neighbourhood Plan.

### **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 in Flood Risk Zone 1. The application is accompanied by a Flood Risk Assessment (Airey and Coles, Ref 11294-A&C – C – FRA.DS01, dated 23.05.2022). This was supplemented by an Addendum, Drainage Layout, Surface water calculations and SUDs feature sections on 18.10.2022.

The FRA confirms that infiltration testing has been carried out and found the use of soakaways to not be feasible. A framework drainage scheme has been submitted proposing controlled discharge rate of 7.7l /sec into the public surface water sewer. The drainage scheme includes below ground (under parking areas) attenuation tanks and three open water features within the landscape. The drainage scheme is designed to be installed in phases: phase 1 centre of site, phase 2 south of site and phase 3 north of site (shown in Appendix A of the FRA drawing No 11294-FRA3-P1.

SW Water have commented that the ponds and attenuation swales will need to be lined to prevent pollution of ground water and this can be pursued at detailed design stage.

The Council's Drainage Team has been consulted and has no objections subject to the development being implemented in accordance with the submitted scheme. It is recommended that compliance with the submitted FRA be secured by condition together with details of each phase prior to their commencement.

### **Recycling, Waste, Sustainability, Low Carbon**

Policies W1 and W2 of the Torbay Local Plan require proposals which are likely to generate significant volumes of waste to include a Waste Audit and Waste Management Plan setting out how waste generation will be reduced during the construction and operation of the development. Schemes should include measures to:

1. Prevent and minimise, re-use and recycle waste (including composting where appropriate);
2. Minimise the use of raw materials;
3. Minimise the pollution potential of unavoidable waste;
5. Make provision for the storage and collection of waste and
6. Dispose of unavoidable waste in an environmentally acceptable manner.

The applicants have confirmed that in terms of refuse and recycling, they will continue to employ a private waste collection service suited to their specific needs and will expand that to include the care home, ancillary uses and assisted living units. The position of bin stores on the site and their design can be secured through the previously mentioned condition (see Highways Section on swept paths).

The proposal involves a considerable amount of excavation of the site for foundations, lower ground level buildings, stie levelling and drainage basins. The applicants anticipate that some of the excavated materials would be reused within the site. However, it is recommended that details of how waste generated by excavations will be managed are secured through a condition in accordance with Polies W1 and W2 of the Torbay Local Plan.

### Energy and Sustainability

Policy ES1 of the Torbay Local Plan seeks to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited. Major development proposals are required to show how low-carbon design has been achieved, and how the following sequential energy hierarchy has been applied in doing so:

1. Conserve energy by reducing energy demand (building orientation, layout and landscaping to optimise solar gain, ventilation and cooling);
2. Use energy efficiently within the fabric of the building and
4. Use on-site or near-site renewable technologies to achieve further reductions in carbon emissions.

The applicants have submitted a Stage 2 Energy and Sustainability Statement (Ref No REP-0308375-08-HLEA-20220530- P03). This aims for the buildings to operate carbon neutrally. The Statement identifies the use of Ground Source Heat Pumps (using bore holes) and located in Plant rooms at lower ground floor levels of the buildings in order to provide warm and cool water for heating and air conditioning. The proposals for the excavations will need to be worked up in detail and this can be secured through a condition. The proposal also includes the use of photovoltaic cells mounted to face south at 35 degrees on the flat green roofs covering 550sqm. The fabric of the Main House and the IPU buildings is estimated to achieve 15% above Part L 2021 Building Regulations. The apartments in the Assisted Living Units are proposed to have large, glazed areas. The south facing units have been assessed with regards to ventilation and window openings. Additional modelling is prescribed for those apartments that may require additional design features e.g. shading by overhangs/brises soleil.

### **Designing Out Crime**

Policy DE1.4 of the Torbay Local Plan seeks development proposals to be designed to reduce crime and the fear of crime by the promotion of safety and security in the design of buildings and surrounding space, whilst ensuring that amenities are not unduly affected. Design should also minimise opportunities for community conflict, antisocial behaviour and maximise safety for all.

No objections were raised although Devon and Cornwall Police were concerned about the lack of submitted Secured by Design information. This was rectified during the life of the application. A condition has been suggested to deliver these recommendations and subject to its use, the proposal is in accordance with Policy SS11 of the Local Plan.

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

#### **Local Finance Considerations**

##### **CIL:**

The application is for assisted living apartments which are not liable for CIL.

##### **S106:**

- Assisted Living Occupation Restrictions
- Contribution towards provision of a pedestrian/cycle access improvements to Shiphay Lane
- Contribution to provide a segregated pedestrian/cycle surface along the egress road from Rainbow House to Shiphay Lane; scheme to be agreed prior to commencement of development and implemented prior to occupation
- Travel Plan and monitoring and implementation
- Shuttle bus and waiting area facilities for lifetime of the development – if not provided, a sustainable transport contribution to be paid.

### **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 aspirations to provide employment and health services would produce a significantly positive impact overall. The scheme would minimise impacts on heritage and ecology. Subject to securing the tree protection, tree planting and landscaping scheme, the proposal would be compliant with aims to maintain and enhance landscaping in the area. Subject to securing of pedestrian and cycle access improvements through a s106 agreement, highway matters would be satisfactorily addressed.

### **Officer Recommendation**

It is recommended that the Committee resolves to grant planning permission subject to:

- a) Satisfactory completion of a Stage 1 Road Safety Audit for the segregated pedestrian/cycleway route to Shiphay Lane and crossing of Shiphay Lane
- b) Completion of a satisfactory S106 planning agreement and the agreement of any necessary extensions to the statutory determination period to complete this agreement; and
- c) The following conditions:

### **Conditions**

#### **Pre-commencement**

1. Phasing Plan to identify each phase on a plan and the related road, parking areas, landscape areas and implementation.

Prior to the commencement of development a phasing plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall set out the phases of the development and how the development will be implemented in relation to an agreed timetable of works. The phasing plan shall include

- (i) site excavations,
- (ii) building construction
- (iii) provision of car parking for each phase
- (iv) provision of on-site planting for each phase,
- (v) the locations of green infrastructure to include allotments (of at least 475sqm), village green of 480sqm to include a footpath
- (vi) road construction and provision of vehicle passing places within the site and
- (vii) active travel provisions.

The development shall be carried out in accordance with approved phasing plan.

**Reason:** To ensure the development is constructed in a timely manner and satisfactorily completed to meet the requirements of the Torbay Local Plan. This needs to be a pre-commencement condition to ensure that the development is constructed in a timely manner from the outset of development.

## 2. CMP for each phase

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

- (i) details as to how vehicular access to Shiphay Lane will be restricted
- (ii) The parking of vehicles of site operatives and visitors
- (iii) loading and unloading of plant and materials
- (iv) storage of plant and materials used in constructing the development
- (v) the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- (vi) Wheel washing facilities
- (vii) Measures to control the emission of dust and dirt during construction.
- (viii) A scheme for recycling/ disposing of waste resulting from construction works with priority given to reuse of building materials of site wherever practicable.
- (ix) Measures to minimise noise nuisance to neighbours from plant and machinery. Construction working hours shall be from 07:30 to 18:00 Monday to Friday, 08:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays, unless otherwise agreed in writing by the Local Planning Authority.

The approved Statements shall be adhered to throughout the construction period of the phase of the development that they relate to.

**Reason:** In the interests of highway safety with regards to construction traffic and the amenities of surrounding occupiers during the construction of the development further to Policies TA2 and DE3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

## 3. CEMP for each phase

No development (including demolition, ground works and vegetation clearance) shall take place for any phase of the development until a Construction and Environmental Management Plan (CEMP) for that phase has been submitted to and approved in writing by the Local Planning Authority. Each CEMP shall be prepared in accordance with specifications in clause 10.2 of BS 42020:2013 (or any superseding British Standard) and shall include the following:

- (i) Risk assessment of potentially damaging construction activities
- (ii) Identification of biodiversity protection zones
- (iii) Practical measures (both physical measures and sensitive working practices) to avoid or reduce environmental impacts during construction
- (iv) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.

- (v) The times during construction when specialist ecologist need to be present on site to monitor works to ensure compliance with the CEMP and the actions that will be undertaken.
- (vi) Responsible persons and lines of communication
- (vii) The role and responsibilities on site of an ecological clerk of works or similarly competent person
- (viii) Details of how lighting will be controlled during the construction phase of development.

Each approved CEMP shall be adhered to and implemented throughout the construction period of the phase of development to which it relates, strictly in accordance with the approved details.

**Reason:** To ensure that all retained habitats, trees, hedges and new planting on the site are adequately protected before the construction of the development commences and while it is in progress, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012 and the National Planning Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

#### 4. FRA.

No phase of the development (including ground works and vegetation clearance) shall take place until the detailed surface water drainage scheme for that phase has been submitted to and approved in writing by the Local Planning Authority. The detailed drainage design shall be in accord with the principles established in the approved framework FRA (11294-A&C-C-R.DS.01 and Addendum 1129-A&C-C-ADD-01-P1).

The drainage scheme shall

- (i) give priority to the use of sustainable urban drainage systems and include details of how they have been designed to cater for the 1 in 100 critical rainfall event plus an allowance for climate change
- (ii) Provide evidence that trial holes and infiltration test have been carried out
- (iii) Demonstrate that there will be no increased risk of flooding to surrounding buildings roads and land

No phase of the development shall be occupied or brought into use until the approved surface water drainage scheme for that phase has been completed as approved and shall be continually maintained as such thereafter.

**Reason:** In the interests of securing a satisfactory drainage scheme prior to commencement of the development that adapts to climate change and manages flood risks on the site and in the vicinity further to Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030 and the guidance contained in the National Planning Policy Framework. This needs to be a pre-

commencement condition to ensure that the impacts of construction on flood risk and drainage are mitigated from the outset of development.

5. Building Record & Archaeological WSI for each building and historic garden feature

No development or demolition shall take place until the developer has secured the implementation of a programme of historic building recording and archaeological work in accordance with a written scheme of investigation (WSI) which has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out at all times in accordance with the approved scheme as agreed in writing by the Local Planning Authority.

**Reason:** To ensure, in accordance with Policy SS10 of the Torbay Local Plan 2012-2030 and paragraph 205 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development. This needs to be a pre-commencement condition to ensure that the impacts of construction on heritage assets are mitigated from the outset of development.

6. Protection of fabric of Main House and Rainbow House (during construction)  
Prior to the commencement of the remodelling and extensions to Main House and remodelling of Rainbow House details of the means of keeping the respective building secure and protecting the building fabric (from adverse weather or unauthorised entry) during construction shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved details prior to commencement of the works to the respective building or part thereof and shall be maintained in that condition thereafter.

**Reason:** To ensure a sympathetic form of development and to preserve the character of the non-designated heritage assets further to Policies DE1 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on heritage assets are mitigated from the outset of development.

7. Historic Garden Features

A Method Statement for the protection and preservation of the garden features shall be submitted to and approved in writing prior to the commencement of any works above, below or adjacent to the respective feature (within 5m distance measured horizontally). The garden features include:

- a) the WWII bunker (underground and above ground features),
- b) the kitchen garden wall
- c) the orchard wall

d) the fountain base

The development shall be implemented in accordance with the approved Method Statement.

**Reason:** To ensure the protection and maintenance of the significance of non-designated heritage assets that may be affected by the development in accordance with Policy SS10 of the Torbay Local Plan 2012 - 2030 and paragraph 203 of the National Planning Policy Framework (2021). This needs to be a pre-commencement condition to ensure that the impacts of construction on heritage assets are mitigated from the outset of development.

8. Finished Floor Levels, datum levels

No development shall take place until details of the existing and proposed datum levels, finished ground levels within the site, finished floor levels including buildings and structures, have been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved level details unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** In the interests of visual and residential amenity, in accordance with Policies DE1, C5 and DE3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the development is constructed in a satisfactory manner from the outset of development.

9. Passing Places

No phase of the development (including ground works and vegetation clearance) shall take place until details of the construction of the Passing Places on the driveway from Avenue Road in accordance with Technical Note 08915 P02 (Hydrock dated 4 November 2022) have been submitted to and agreed in writing by the Local Planning Authority. The passing places shall be constructed in accordance with the approved details prior to the first occupation of the development hereby permitted and shall be maintained in that condition thereafter.

**Reason:** In the interests of securing a safe and adequate access to the site and the convenience of road users in the vicinity further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

10. Road Construction

No phase of the development (including ground works and vegetation clearance) shall take place until details of the position and construction of the roads and footpaths, including crossing points, within the site serving that phase have been submitted to and agreed in writing by the LPA. The development shall be implemented in accordance with the approved details and maintained in that condition thereafter.

**Reason:** In the interests of a safe and adequate access to the site and within the stie further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction on existing users of the site and on neighbour amenity and highway safety and convenience are mitigated from the outset of development.

11. Signage to egress

Prior to commencement of development a scheme of signage at the exit route from the north of the site to Shiphay Lane shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include details of wording of the signage and details of how the applicant will restrict the use of the egress by vehicles. The scheme shall be implemented on or before the commencement of development.

Reason: In the interests of pedestrian and cyclist safety during the construction of the development and thereafter further to Policy TA2 of the Torbay Local Plan. This needs to be a pre-commencement condition to ensure that the impacts of construction on existing users of the site and highway safety and convenience are mitigated from the outset of development.

12. Swept paths for delivery/emergency and refuse vehicles (by phase)

No phase of the development (including ground works and vegetation clearance) shall be commenced until detailed swept path analysis for emergency, refuse and delivery vehicles for the roads, parking areas and service areas serving that phase have been submitted to and agreed in writing by the LPA. The development shall be implemented in accordance with the approved details and maintained in that condition thereafter.

**Reason:** To ensure that the development will provide adequate access for service vehicles in a manner that is safe and does not cause inconvenience to occupants and visitors to the site further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the layout enables proper functioning of the development and that the impacts of construction on existing users of the site and highway safety and convenience are mitigated from the outset of development.

13. The Waste Management Plan for each phase

No development (including ground works) or vegetation clearance works shall take place for any phase of the development until a Waste Management Plan for that phase has been submitted to and approved in writing by the Local Planning Authority. The Waste Audits and 5-year Waste Management Plans shall include measures to:

- (i) Prevent and minimise, re-use and recycle waste generated by the development including building materials, timber and ground materials
- (ii) Minimise the use of raw materials.
- (iii) Minimise the pollution potential of unavoidable waste.
- (v) Make provision for the storage and collection of waste.
- (vi) Dispose of unavoidable waste in an environmentally acceptable manner.

**Reason:** In the interests of ensuring a sustainable approach to construction of the development and reducing the amount of waste generated by the development of the site further to Policy W3 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction are mitigated from the outset of development.

#### 14. Tree Protection Plan for each construction phase

No development (including ground works) or vegetation clearance works shall commence for any phase of the development until a Tree Protection Plan and Arboricultural Method Statement for the relevant areas of the site for that phase have been submitted to and agreed in writing by the Local Planning Authority for all land impacted by that phase. The Tree Protection Plan shall show the position of protective fencing, root protection areas for retained trees and the type of fencing.

- (i) The area beneath the tree/hedge and between the trunk of the tree/hedge 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 and hedges shall be allowed onto the fenced area.
- (ii) No trenches for service runs, or any other excavations shall take place within the fenced area.
- (iii) 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 or hedge roots.
- (iv) Works to trees and hedges to be retained. Any work carried out to trees and hedges to be retained on site or close to the boundary of 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.

The development shall be implemented in accordance with the approved details for the duration of the construction of that phase.

**Reason:** To ensure that all existing trees and hedges on the adjoining sites will be adequately protected prior to commencement and during construction of the development in accordance with Policy NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on protected trees and hedges are mitigated from the outset of development.

15. Arboricultural Method Statement -trees marked orange

No development (including ground works) or vegetation clearance works shall commence for any phase of the development before an Arboricultural Method Statement for the trees marked in orange on Drawing No 350 Rev C (Tree Overview) for each respective phase has been submitted to and approved by the Local Planning Authority. The Arboricultural Method Statement shall include

- (i) Excavation and dig methods
- (ii) Tree protection methods

**Reason:** To ensure that retained trees and hedges on the site are adequately protected prior to commencement and during construction of the development and retained, in accordance with Policy NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on protected trees and hedges are mitigated from the outset of development.

16. Landscape EMP for woodland enhancement

No development (including ground works) or vegetation clearance works shall commence for any phase of the development until a Landscape and Ecological Management Plan (LEMP) shall be submitted to and approved in writing by the Local Planning Authority. The LEMP will include details relating to habitat creation, species specification and management. It shall include a Woodland Management Plan for the site. The LEMP shall include an implementation strategy and timetable for implementation. The development shall be implemented in accordance with the approved LEMP and with the approved timetable for the duration of the agreed management plan period.

**Reason:** To ensure that all existing trees and hedges and new planting on the site and on adjacent sites are adequately protected and maintained prior to and during construction and occupation of the development, in accordance with Policies C4 and NC1 of the Torbay Local Plan 2012 and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on protected trees and hedges are mitigated from the outset of development.

17. Vegetation Clearance in nesting season

No vegetation removal shall be undertaken during the bird nesting season (March-September) unless a pre-works check is carried out by a suitably qualified ecologist confirming that nesting birds are absent and a report of this check kept and made available to the Local Planning Authority upon request. If a nest is found the vegetation clearance should cease until such time as the chicks have fledged.

**Reason:** To prevent harm to nesting birds in accordance with policy NC1 of the Torbay Local Plan 2012-2030. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

#### 18. Biodiversity Enhancement.

Prior to the commencement of any development (including ground works) or vegetation clearance on the site a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation and/or compensation measures, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the recommendations of the submitted Ecological Assessment (Ecology dated 22, reference numbers 14203\_R01, R03 and R05). Details of the ten bat boxes and ten bird boxes shall be submitted to and approved by the LPA prior to above ground development of each phase and thereafter shall be implemented in accordance with the approved details prior to the first occupation of the respective phase/building and retained in that condition thereafter.

**Reason:** In the interests of protecting existing wildlife and enhancing biodiversity on the site in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and the National Planning Policy Framework. This needs to be a pre-commencement condition to ensure that the impacts of construction on biodiversity and habitats are mitigated from the outset of development.

#### Prior to above ground development (AGD)

#### 19. Foot cycle way within site

Prior to the above ground development of the Care Home hereby approved details of a scheme for provision of a segregated pedestrian and cycle route between Rainbow House and the northern boundary of the egress road shall be submitted to and approved by the LPA. The scheme shall be implemented in accordance with the approved details and made available for use by pedestrians and cyclists to a satisfactory standard prior to the first occupation of the Care Home. The route shall be maintained in that condition thereafter.

**Reason:** In the interests of a safe and adequate access and the convenience of occupants and visitors to the site further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

#### 20. Materials for each building- prior to AGD

Prior to the commencement of above-ground works for each phase or building of the development hereby permitted, samples and/or details of colour, type and texture of all external materials, including hard-surfaced areas, to be used in the construction of the respective building or phase shall be submitted to and approved by the Local Planning Authority. The development shall be implemented in accordance with the approved details and retained in that condition thereafter.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DE1, DE5 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

21. Details of parking layouts and construction (for each phase) prior to AGD - Prior to the above ground development of each phase of the development details of the surface, layout, construction and kerbs/edges of the respective car parking areas shown on Drawing No BA9546 – 2025Rev B shall be submitted to and approved in writing by the Local Planning Authority. Prior to occupation of the relevant building or phase the parking areas shall be provided on the site in accordance with the approved details and shall thereafter be retained for their intended use with the associated development for the lifetime of the development. The parking spaces provided in each phase shall be allocated in accordance with a Parking Management Plan to be submitted and agreed in writing by the Local Planning Authority prior to occupation of that phase.

**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.

22. Electrical Vehicle Charging Points at 20% for each phase – Prior to the above ground development of each phase of the development hereby permitted details of the locations of electric vehicle charging point (EVCP) for 20% of the car parking spaces shall be submitted and agreed in writing by the Local Planning Authority. The EVCP shall be provided in working order in accordance with the approved details prior to first occupation of each phase and made available for the lifetime of the development.

**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.

23. Landscaping scheme

No development (including ground works) or vegetation clearance works shall commence for any phase of the development until a landscaping scheme for the respective phase has been submitted to and approved by the Local Planning Authority. Each scheme shall be in accordance with the approved Landscape Strategy (Referenced P-2022-0772-8) and Drawing 350 Rev C) to include:

- a) planting: species, number, position and spacing of plants
- b) hard- surface:
- c) Planting Management Plan and
- d) Method Statement for each phase
- e) details of shuttle bus stop and waiting area
- f) boundary treatments

The development shall be implemented in accordance with the approved details in the first planting seasons after the first occupation of that phase or completion, whichever is sooner.

The planting and aftercare of the trees shall be strictly carried out in accordance with BS 8545:2014 Trees: from nursery to independence in the landscape - Recommendations

If within a period of 5 years from the completion of the new planting, any of the trees are cut down, felled, uprooted, removed, destroyed, or die or become in the opinion of the Council, seriously damaged or defected,

(a) the Council shall be immediately notified as soon as reasonably practicable; and

(b) another tree of the same size and species shall be planted at the same location, at a time agreed in writing by the Local Planning Authority.

Photographic evidence of the re-planting shall be submitted to the LPA.

**Reason:** To ensure the continuity of succession tree planting as strictly required to achieve compliance with Part 8 of the Town and Country Planning Act 1990, which is enforced to ensure replacement of those trees that contribute significantly to the public visual amenities of the local and wider landscape. guidance contained in the NPPF.

#### 24. Lighting Strategy

A detailed Lighting Strategy will be submitted for agreement with the Local Planning Authority prior to the above ground development of each phase. The strategy will minimise indirect impacts from lighting associated with the pre-construction, during construction and operational activities, and demonstrate how the best practice (BCT/ILP, 2018) guidance and the recommendations within the ecology report has been implemented. This will include details such as the following: artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with dwellings.

The development shall take place in accordance with approved lighting strategy. No additional lighting shall be installed within the site without previous approval in writing by the Local Planning Authority.

**Reason:** In the interests of protecting and enhancing biodiversity in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

#### 25. Substations details prior to AGD and implement prior to occupation

Prior to the above ground development of each phase of the development hereby permitted details of the locations of the proposed respective substations shall be submitted and agreed in writing by the Local Planning Authority. The substations shall be provided in accordance with the approved details prior to first occupation of each phase and retained in that condition thereafter.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

26. Energy Renewables

The development shall be implemented in accordance with the principles set out in the submitted Stage 2 Energy and Sustainability Statement (Hoare Lee, REP-0308375-08-HLEA-20220530 P03 , dated 03.06.2022). Prior to the above ground development of each phase of the development hereby permitted details of the positions of respective ground source heat pump bore holes and details of the location, materials, dimensions and colours of the respective photovoltaic panels, batteries and heat pump equipment shall be submitted and agreed in writing by the Local Planning Authority. The renewable energy equipment shall be provided in accordance with the approved details prior to first occupation of each phase and retained in that condition thereafter.

**Reason:** In the interests of carbon reduction and to ensure a satisfactory form of development in accordance with Policies ES1, ES2 and DE1 of the Torbay Local Plan 2012 and the National Planning Policy Framework.

27. Secured by Design

Prior to the above ground development of each phase, a scheme detailing security measures and how designing out crime, fear of crime and anti-social behaviour and ensuring the security and safety of future residents have been considered and submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of a monitored CCTV system and that a clear passport to compliance document will be put in place prior to installation to ensure that the system is fit for purpose. The scheme shall also include details of an external lighting plan relating to the public realm and associated areas. Development shall take place in accordance with the approved details and shall be fully implemented prior to the occupation of the building(s) to which it relates. The scheme shall be retained and maintained for the lifetime of the development.

**Reason**

To ensure the safety and security of persons and property and to minimise opportunity for crime, fear of crime and antisocial behaviour. In accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030.

28. Details of boundary treatments within site eg fences around nursery, rear of Care Home courtyards

Prior to the above ground development of each phase of the development hereby permitted details of all boundary treatments for the gardens and amenity areas for each building shall be submitted and agreed in writing by the Local Planning Authority. The boundary treatments shall be provided in accordance with the approved details prior to first occupation of each building or phase and retained in that condition thereafter. No further means of enclosure shall be

provided within the site without the prior approval in writing of the Local Planning Authority.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

### **Phase (IPU)**

#### **29. New windows and doors**

Prior to the above ground development of the remodelling and extensions to Main House and remodelling of Rainbow House details of all new windows and external doors to be installed in the respective building shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include materials, colour, means of opening and section drawings (including the reveals) at scale 1:10 or 1:20. The development shall be implemented in accordance with the approved details prior to first occupation of the respective building or part thereof and shall be maintained in that condition thereafter.

**Reason:** To ensure a sympathetic form of development and to preserve the character of the non-designated heritage assets further to Policies DE1 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

### **Phase (Assisted Living Units, Rainbow House)**

#### **30. Full set of elevations for each pavilion prior to AGD**

Prior to the above ground development of the Assisted Living Units hereby permitted a full set of drawings at scale 1:100 for all the elevations of the three pavilions and the cottage shall be submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the approved elevations.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

#### **31. Accessible and adaptable**

The Assisted Living Units shall be built to meet Part M(4)Cat2 of the Building Regulations or above and equipped to meet that standard prior to their first occupation. These units shall be retained and maintained as such for the life time of the development.

**Reason:** To ensure adequate accommodation to meet the needs of the intended occupants further to Policies H6 and DE3 of the Torbay Local Plan 2012-2030.

Prior to occupation of each phase/Building

32. Roadway and Nursery

Prior to the first occupation of the nursery building the construction and provision of the following shall be completed and made available for use as shown on the approved Proposed Site Plan (Drawing Number BA9546-2025 Rev B):

- (i) spine road through to the northern egress of the site,
- (ii) the drop-off layby and
- (iii) adjacent parking spaces

**Reason:** To ensure the safety and convenience of the occupiers and visitors to the nursery further to Policies TA2 and TA3 of the Torbay Local Plan 2012-2030.

33. Care Home Ancillary support facilities

The units identified as ancillary uses on Drawing No BA9546-2300-RevB around the village green shall be provided and made available for use prior to the occupation of the 50<sup>th</sup> Care Home bedspace. The ancillary spaces shall be retained for the specified uses thereafter unless otherwise agreed in writing by the Local Planning Authority.

**Reason:** To ensure provision of supporting ancillary services further to Policies SS11, H2 and H6 of the Torbay Local Plan 2012-2030.

34. Parking Management Plan

No phase of the development (including ground works and vegetation clearance) shall be occupied until a Parking Management Plan for the parking and service areas serving that phase have been submitted to and agreed in writing by the LPA. The development shall be implemented in accordance with the approved details and maintained in that condition thereafter.

**Reason:** In the interests of a safe and adequate access and parking and the convenience of occupants and visitors to the site further to Policies TA1 and TA2 of the Torbay Local Plan 2012-2030.

35. Provision of cycle and mobility scooter storage

Prior to the first occupation of each phase or building details of the locations and materials of secure and weatherproof storage of mobility buggies and cycles shall be submitted to and agreed in writing by the Local Planning Authority. The details shall include the following:

- (i) Storage spaces shall be provided at a rate of 1 space per Assisted Living Unit
- (ii) Cycle parking and storage shall be provided for staff and visitors to the site at a rate to be determined through Travel Plan monitoring

The approved details shall be implemented prior to the first occupation of the respective phase or building and made available for use and retained and maintained in that condition thereafter.

**Reason:** In the interests of provisions for non-car modes of transport for the residents of the development further to Policies TA2 and TA3 of the Torbay Local Plan 2012-2030.

36. Provision and locations of bin stores

Prior to the first occupation of each phase or building details of the locations and materials of secure refuse and recycling storage and collection points shall be submitted to and agreed in writing by the Local Planning Authority. The approved details shall be implemented prior to the first occupation of the respective phase or building, made available for use and retained and maintained in that condition thereafter.

**Reason:** To ensure a satisfactory form of development in accordance with Policies DE1 and SS10 of the Torbay Local Plan 2012, Policy TH8 of Torquay Neighbourhood Plan 2019 and the National Planning Policy Framework.

37. Use for assisted living

The Assisted Living Units hereby approved shall be used for supported living accommodation in association with the hospice and care home uses on the site and for no other purpose. Supported Living shall be limited to those people aged over 65 years (and their household) and receiving support care services from the operator of the hospice and care home on the site.

**Reason:** In the interests of residential amenity of the site and to ensure that the use of the site accords with Policies H6, SS11 and DE3 of the Torbay Local Plan. Any variation from the use applied for must therefore have the express approval of the Local Planning Authority.

38. Provision of communal facilities prior to first occupation

Prior to the first occupation of the Assisted Living Units the communal facilities on the ground floor shown in Drawing No BA9546-2205Rev A shall be provided and made available for use by the residents and retained in that condition thereafter.

**Reason:** To ensure adequate accommodation to meet the needs of the intended occupants further to Policies H6 and DE3 of the Torbay Local Plan 2012-2030.

39. Occupation of Lodges

The visitor lodges hereby approved shall only be used in support of the Outpatient and Inpatient Units of Rowcroft Hospice for visitors and family of patients. Residential use of these properties shall not be as permanent residences. The Occupation of the premises shall be limited to one group booking at any one time and for no more than three months in any calendar year by any individual occupant, group of individuals or family and shall not be

occupied as a main place of residence. The owner shall maintain an up-to-date register of the details of all occupiers, including their names and main home addresses, and shall make it available for inspection at all reasonable times by the local planning authority.

**Reason:** To ensure the three lodges are not used for permanent residential accommodation further to Policies H1, DE1 and DE3 of the Torbay Local Plan.

39. Obscure glazing

Prior to the relevant unit being occupied, the dining room window in the south elevation of the second floor of Pavilion 3 shall be fitted with obscure glazing to Pilkington Level 4 to a height no lower than 1.8m above the internal floor level. The windows shall be fixed unless opening parts are located higher than 1.8m above finished floor level or they are fitted with a 100mm opening restrictor. The windows shall thereafter be permanently retained in that condition.

**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

**Relevant Policies**

*Torbay Local Plan:*

SC1 Healthy Bay  
SS1 Growth Strategy for a prosperous Torbay  
SS4 The economy and employment  
SS9 Green Infrastructure  
SS10 Conservation and the historic environment  
SS11 Sustainable Communities  
SS14 Low carbon development and adaptation to climate change  
H1 Applications for new homes  
H2 Affordable housing  
H6 Housing for people in need of care  
DE1 Design  
DE3 Development amenity  
DE5 Extensions  
TA1 Transport and accessibility  
TA2 Development access  
TA3 Parking Requirements  
C4 Trees, hedgerows and natural landscape features  
C5 Urban Landscape Protection Areas  
NC1 Biodiversity and geodiversity  
ER1 Flood risk  
ES1 Energy  
W1 Waste hierarchy  
W2 Waste audit for major developments

*Torquay Neighbourhood Plan*

TH8 – Established architecture

TH9 – Parking facilities

THTW4 - Outside space provision

## TORBAY COUNCIL

Application Site Address	Former Shedden Hall Hotel Shedden Hill Road Torquay TQ2 5TX
Proposal	Outline Application for the construction of residential accommodation for up to 25 units (Detailed approval sought for Access, Appearance, Layout and Scale, with Landscaping a Reserved Matter).
Application Number	P/2021/1314
Applicant	PC South Devon Limited
Agent	Kay Elliott Architects
Date Application Valid	19.05.2022
Decision Due date	18.08.2022
Extension of Time Date	23.12.2022
Recommendation	<p>Approval: Subject to;</p> <p>Agreement of an acceptable provision of affordable housing, or the provision of an Affordable Housing Review Clause within a S106 Legal Agreement, signed within 4 months of the committee date. In the absence of either being secured the application (or reasonable progress being made to secure the S106 within a reasonable alternative timescale) to be refused, delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>Conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional 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	Major Development.
Planning Case Officer	Scott Jones



## **Description of Development**

This is an outline application for the construction of residential accommodation for up to 25 units. The application however seeks detailed approval for all matters except landscaping (Detailed approval sought for Access, Appearance, Layout and Scale, with Landscaping a Reserved Matter).

The proposal is for two apartment buildings presented in a modern villa form, with rendered walls and a recessed upper roof storey presented in natural slate.

The buildings are set parallel to the adjacent highway and will be served from the existing access point near to the boundary with the Heritage Hotel (Appleby's). The proposals include 35 parking spaces, 3 external and 32 provided across two floors of under-croft.

Both buildings are split level to address the relatively steep drop in levels from east to west. The higher building (northern building) holds 6 floors of accommodation, and the lower building holds 4 floors of accommodation and 2 floors of parking. Both present 3-4 floors to Shedden Hill. Cycle parking and waste storage is held within a lower link between the buildings.

In terms of the accommodation the scheme proposes 22 2-bed apartments and 3 3-bed apartments. The units vary in size from 85sqm to 161sqm. No affordable housing is proposed on the grounds of viability.

## **Pre-Application Enquiry**

DE/2020/0079: Redevelopment of site to form 35 apartments. Split decision.

Summary conclusion: Considering the historical consents were for 14 and 11 units the provision of 35 units on the site appears challenging. There is support for the efficient use of land but also it will be key to ensure that the plot is not overdeveloped inasmuch that it results in an unsatisfactory form of development in the conservation area and an unsatisfactory residential environment for future occupiers or adjacent occupiers, together with other matters such as parking and movement issues. In summary the key concerns relate to design and visual impact and amenity and parking considerations. It is recommended that these are duly explored to ensure the scheme progresses positively.

## **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 (TNP)

### **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
- Heritage context, set in a Conservation Area (Belgravia) and within the setting of the nearby Grade 2\* St Luke's Church.

### **Relevant Planning History**

P/2010/0884: Conversion of hotel to 9 holiday apartments with owners' accommodation and construction of two buildings to form 14 residential flats. Withdrawn.

P/2011/0227: Part demolition, conversion and alteration from hotel to 7 residential dwellings and formation of 3 residential dwellings and 4 new residential houses with parking. Approved.

P/2016/0305: Refurbishment of former hotel and demolition of modern extensions. Conversion to provide 4 residential apartments. New build residential accommodation within grounds comprising 2 two storey garden cottages, 4 four storey town houses and 1 four storey coach house. Provision of 19 car parking spaces. Reconnection to public footpath and reinstatement of stone boundary wall. Approved.

### **Summary of Representations**

18 Objections. 8 from the Torbay Heritage Trust, 1 from the local health trust, 9 from the general public. The key issues raised are as follows:

- Overdevelopment
- Too high
- Poor design
- Noise
- Loss of light
- Loss of privacy
- Increased traffic
- Impact on conservation area
- Reduction in wildlife
- Parking inadequate
- Harmful to the Conservation Area
- Harmful to the setting of listed buildings
- Impact on healthcare
- Doesn't respond to numerous policies regarding design and heritage assets.

Torbay and South Devon Healthcare Trust seeking £10,322.00 towards the gap in funding from potential residents.

## **Summary of Consultation Responses**

### **Torquay Neighbourhood Forum:**

Welcomes development on this 'eyesore' site. It is a good use of Brownfield Land and will provide much needed housing. Kay Elliott have engaged with us and shared their proposals at a meeting of the Steering Group.

The proposals have been assessed against the Development Plan. In general it complies with the Policies except for two non-compliances:

H2 Affordable housing: No provision has been made. Torbay is desperately short of Affordable housing and, once again, we see a development where the opportunity for provision is missed.

DE2 Building for Life: We cannot find an assessment in the documentation on the Portal.

Parking is borderline compliant owing to the tandem parking. However, this is mitigated by the proximity to public transport and the town centre, and that not all apartments will own 2 cars.

Design will always be controversial, and there will be wide ranging differences of opinion regarding how it fits in with the neighbouring buildings. There is a broad spectrum of design in the surroundings ranging from the traditional Victorian Villa through to the ultramodern box-like structure. This proposal leans towards the modern. It is mitigated by the Mansard roof, like that of the Premier Inn. The buildings do seem to be higher than we appreciated from the Kay Elliott presentation. We note the information on views and relationship with neighbours in the Design & Access Statement, and that several Objections have been made. Thus, we have defined compliance as 'Borderline'.

In conclusion, overall, the Forum supports this proposal if the non-compliances are addressed.

### **Historic England**

Confirmed they do not wish to comment and suggest that the views of your specialist conservation and archaeological advisers are sought.

### **Torbay Planning Conservation Advice**

The proposed heights are out of character with the progressive building heights of the neighbouring buildings that acknowledge their position on the hillside and the position of those buildings around themselves. Within the Design and Access Statement (Page 38) the dotted blue line arcs upwards for no other reason than to accommodate the additional storeys and does not accurately reflect the trend of building heights. Should the heights be reduced in line with the comment above, the buildings would conform to the local aesthetic, acknowledge the topography of the area and the historic layout of the CA. Pushing the heights upwards from the basement level to accommodate two stories of parking seems unnecessary given the sites location. If both buildings are reduced by one storey from the top down, this issue may be overcome.

Given the similarities of the design and the lack of any visual breaks/vegetation between each of the proposed crude blocks, they read as a single mass from the key vantage points which detrimentally increases their perceived mass. There is also a clear lack of relief in the elevations when compared to the historic villas within the CA. The side elevations are poor and do not fit the villa model where multiple elevations are addressed. Using the contemporary interpretation of a town house as inspiration is likely the cause for these poor design features.

The context imagery clearly shows that the buildings dwarf other key adjacent buildings including Appleby's.

I also question the imagery used in the background within the Design and Access Statement (Page 38) and its scale, to me it does not look accurate.

Given the numerous design issues and challenges, the scheme would benefit from DRP and engagement with Historic England.

Based on the points above I would suggest that the proposal amounts to avoidable less-than substantial harm to both designated and non-designated heritage assets and their settings.

### **Torbay Council's Highways Engineer (SWISCo)**

03.11.2022 – the request for further information resolved. This removes the objection from the Highway Authority.

Previous comments:

It has been confirmed the following provision is proposed, Car parking spaces 25 (one space per flat), Visitor parking spaces 5 (provision rate of 20%), accessible parking spaces 5 (provision rate of 20%). The allocation of one parking space per flat is in line with Torbay's adopted parking standards, as per Appendix F of the Local Plan. The proposed provision of visitor parking is now also in alignment with the 20% requested in the pre-application advice (DE/2020/0079) issued to the Applicant. The provision of 5 accessible spaces is equivalent to a 20% provision, which is double the 10% recommendation set out in the adopted parking standards.

The provision of double stacked parking would only be acceptable to the LHA in the instance that both spaces were allocated to the same dwelling.

Further swept path analysis provided to the LHA demonstrated the layout of the car park is acceptable.

Previous correspondence had the following outstanding items:

1. *Clarity is required regarding the number, type and layout of parking spaces proposed, including specification of any proposed allocations, and the proposed provision of both visitor and accessible parking spaces is required;*
2. *Clarity is also required regarding the proposed waste collection strategy, considering standards outlined in Part H6 of the Building Regulations Merged Approved Documents (July 2021 update).*

The Applicant has now submitted a Construction Traffic Management Plan (CTMP). Section 6 of the submitted CTMP includes several mitigation methods that “could be implemented during construction”. These mitigation measures are appropriate in scale and proportionate to the anticipated construction impacts

**Drainage Engineer (Torbay Development Agency)**

Further to the amended drawing number C001 revision B (Drainage Strategy) and drawing number C002 revision A (Impermeable Area Plan), I can confirm that provided the surface water drainage is constructed in accordance with these drawings and the previously submitted hydraulic design, I have no objections to planning permission being granted for this development.

**South West Water**

The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

No development will be permitted within 3 metres of the sewer, and ground cover should not be substantially altered. Should the development encroach on the 3 metre easement, the sewer will need to be diverted at the expense of the applicant.

Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the above proposal.

Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site.

Surface Water Services

The applicant should demonstrate to your Local Planning Authority that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

**Green Infrastructure Manager (SWISCo)**

No objection following the recent receipt of additional information regarding protection of the Turkey Oak.

**Torbay Council’s Community Safety Officer:**

No objection, subject to the inclusion of a condition to secure a Construction Management Plan, which must demonstrate the adoption and use of the best practicable means to reduce the effects of noise, & dust.

**Torbay Council’s Waste Client Manager (SWISCo):**

SWISCo will not drive on to unadopted highway to collect recycling and waste. With an indemnity in place I would have no objection to the development. The developer

needs to be aware that collections of waste and recycling will not begin prior to the indemnity being in place.

I would like to request waste management contributions for this development in line with the table below, for developments with communal waste and recycling facilities;

**Police Designing out Crime Officer:**

Crime, fear of crime, ASB and conflict are less likely to occur if the following attributes of Crime Prevention through Environmental Design (CPtED) are also considered in the design and layout of the proposed scheme:-

Access and movement (Permeability) - Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security. It is understood the footpath providing access to the 24-hour car park is being proposed to improve connections, however if this is open for all to use this could become a cut through for non-residents and increase the risk of antisocial or criminal behaviour. As a gate is being proposed it would be recommended that this is linked into an access control system for residents and authorised users to prevent this being used as a cut through.

Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict Care should be taken to ensure the front boundary wall outside Villa 1 main entrance does not provide an area of concealment especially with the elevation changes to front door.

Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked. It is recommended that a visitor door entry system and access control system is installed. The system should allow for access to the building via the use of a security encrypted key fob or card, it should be vandal resistant door entry panel with a linked camera. The system should allow the residents the ability to release the main door from their dwelling. Live audio and visual communication between the occupant and visitor. It should have the ability to recover from power failure instantaneously and provide unrestricted egress from the building in the event of an emergency or power failure. Control equipment should be located in a secure area within the premises covered by CCTV system and contained in a lockable cabinet to LPS 1175 Issue 8 A1 or STS 202 Burglary rating 1 or equivalent.

We would not support the use of a tradesperson button or release mechanism which have proven to be the cause of anti-social behaviour and unlawful access to communal developments.

Lighting to internal communal areas should be 24 hours (switched using a photoelectric cell). It would be recommended that this is dimmed during low occupation to save energy.

Lighting externally on the building would be recommended with the use of dusk till dawn lighting as opposed to PIR lighting which can increase the fear of crime with repeated activations.

Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.

### Parking

It is unclear from the plans or DAS if the undercroft parking will be secured with a roller shutter door or similar. This is something we would recommend is installed to prevent the parking areas being used for anti-social behaviour or criminal behaviour which has been known to happen. It would be recommended that the door is capable of being operated by the driver whilst sitting in their car and closes on exit.

To ensure that criminal opportunity is minimised and that the day-to-day access and emergency egress do not undermine the security of the residential building above please refer to the standards required for underground car parks at Section 2, paragraphs 31.2 to 31.8 (inclusive) and Section 3, paragraph 55.3 of the attached Secured by Design Homes 2019 guidance.

The use of tandem parking on the first floor should be avoided as it is likely that from a practical and convenience point of view only one of the spaces will be used, which could encourage unplanned parking elsewhere. It is the 'elsewhere' that has real potential in creating vehicle and parking related problems which the police can spend a lot of time dealing with.

The undercroft should have clear uniformed lighting throughout to ensure there is no dark areas, so residents feel safe using this at all times.

### **Independent Viability Assessor (William Lean Associates)**

The purpose of the review is to consider if the application is viable and to assess the number of affordable units that the scheme will support.

The trigger point for the requirement to provide affordable housing under Policy H2 of the Torbay Plan, which requires 20% affordable on brownfield sites of over 20 units.

The initial viability report submitted by the applicant and the subsequent revised viability report submitted show that the proposal is not viable. However, the revised report states a low 5% profit and does indicate that further cost savings are possible which may make the scheme deliverable.

We advise, informed by market research, that the Gross Development Value from the sales of purpose build sustainable high-quality apartments in this prominent location would present a profit of circa 16% rather than the circa 5% presented. The higher sales values and the potential costs savings cited as being possible present some likelihood that the development could support affordable housing.

It is therefore recommended that a clause in accordance with the Planning Practice Guidance for a Viability Review be included in the planning agreements (s.106 obligation) to review key viability inputs and changes in gross development value, on completion of the proposed scheme.

### **Planning Officer Assessment**

#### Key Issues/Material Considerations

1. Principle of Development
2. Heritage, Design and Visual Impact
3. Residential Amenity
4. Highways and Movement
5. Ecology and Trees
6. Flood Risk and Drainage
7. Low Carbon Development and Climate Change
8. Affordable Housing
9. Housing Supply

## **1. Principle of Development**

In terms of context the site is a long-vacant 'brownfield' site located within an established urban area of Torquay relatively close to the town centre and the various shops, services and associated transport options. Although the site is a former hotel it does not sit within an identified 'Core' tourism area and sits in an area with a transitional mixed commercial/holiday and residential character, where the prevailing form of occupancy is apartments offered in large Victorian Villas or large modern apartment blocks on former Villa plots.

The site is identified for housing within the Development Plan which presents clear policy support for the principle of residential use.

In terms of further policy guidance on residential use Policy H1 of The Local Plan states that proposals for new homes within the built-up area (as is the case in this instance) will be supported subject to consistency with other policies in the Local Plan.

In terms of The Torquay Neighbourhood Plan Policy TS4 states that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan.

Considering the site allocation and the broad aspirations of Policies H1 and TS4 the principle of residential use on the site is considered acceptable (in the case of TS4 subject to no significant adverse impacts), but this is subject to broader policy considerations of the Development Plan when considered as a whole and material considerations.

In terms of relevant context it is noted that the site is well located for housing as it is in a sustainable location that has good access to shops and other services, transport links and recreational areas, within an area that already has a residential character. This context supports the principle of a residential use being acceptable.

In terms of other relevant matters of principle it is noted that the Council cannot currently demonstrate a 3 or 5 year housing land supply. For decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are considered to be out of date and therefore should be afforded limited weight within the current decision making process. The 'tilted balance' in favour of sustainable housing development therefore applies subject to the detail wording of the NPPF Para 11 and the associated footnotes.

Drawing together the policy landscape there is broad support for the provision of a residential use on the site. The policy support is clear within Policies TH1 and TS4 of the Torquay Neighbourhood Plan and the current shortfall housing land supply strengthens this support. This broad position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of this assessment.

## **2. Heritage, Design and Visual Impact**

The site is located within the Belgravia Conservation Area on a site close to the Grade 2\* Listed St Luke's Church, which sits on higher land to the northeast. The site is prominent in terms of short 'street' views in both directions along Shedden Hill Road and longer views from the south and west on lower ground around Torbay Road and Tor Abbey Meadows/Tor Abbey Sands, where there are open views up towards the buildings in Shedden Hill Road area. The impact of the proposal on the heritage assets and its broader design quality is hence a key matter to consider.

Policy SS10 of the Local Plan requires development to sustain and enhance assets which make an important contribution to Torbay's built and natural setting, and furthers that all heritage assets should be conserved, proportionate to their importance. As a former hotel site it is noted that Policy TT2 of The Neighbourhood Plan cites that within designated Conservation Areas development proposals requiring consent will be supported in principle (subject to other policies in the Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment. In addition the more generic Policy TH8 cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. This is aligned with the general design policy within The Local Plan where Policy DE1 seeks development to be well designed, respecting and enhancing Torbay's special qualities and the character of the natural built environment including areas and building of historic interest. In addition Policy DE4 of the Local Plan requires building heights to be appropriate to the location, historic character and the setting of development.

Paragraph 126 of the National Planning Policy Framework (NPPF) states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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 includes guidance that decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities). Paragraph 134 guides that development that is not well designed should be refused.

Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context. The key components of the assessment that inform this judgment are outlined below.

The general arrangement and footprint of the two buildings is deemed an acceptable response to the context and the submitted design commentary that contends that the buildings arrangement follow the sweeping arch of Villas long the hillside along Croft Road and down Shedden Hill is accepted.

Turning to height the proposed buildings are higher than the previous Villa and the historic consents for buildings adjacent to the Villa. The proposals are however within circa one-storey of previously accepted buildings heights. The upper building is 2.2m higher than the demolished Villa and the lower building is 2.8m higher than the 'villa building' consented under planning application P/2011/0227. 'In the round' the two buildings follow the 'rise and fall' of buildings along the ridge which is itself a positive. They do however sit higher than the natural and previously experienced building heights. This presents some visual conflict and harm, which is a position offered in the comments from Torbay's internal conservation advisor, where there is a raised concern on the height of the development. There is also a degree of conflict with Policy DE4 (Building heights) of the Local Plan, which states that new development should be constructed to the prevailing height (the most commonly occurring height) within the character area in which it is located, unless there are sound urban design or socio-economic benefits to justify deviation from this approach. There is a balancing exercise to consider weighing the harm against the benefits, with the harm being informed by elements beyond simply height. The setting of the Listed church would be largely unaffected. There is some distance between the sites and the general area is characterised by large buildings set on the hillside.

In terms of the general form of the buildings they are presented as modern villas with largely rendered walls articulated with prominent vertically emphasised glazing. The upper floors of each building are recessed and finished in vertically hung slate to reference the final floors as roof elements. The two lower floors are detailed with a contrasting darker render to present a form of plinth, breaking down the perceived massing from longer views from the south and west. The general form of the two buildings are considered to duly respect the Victorian Villa form that predominates in this part of the Conservation Area. The two-tone render and slate provide baseline materials that respect the local vernacular and the smaller elements of grey metal cladding engrains some modernism to the build.

In terms of landscaping as an influencer of design and visual impact the scheme importantly retains the prominent Turkey Oak set on the lower part of the site. This helps soften and partial screen the development from longer views. The existing green border with the car park also acts as a partial screen and softening element of the context. Detailed landscaping is reserved for future consideration.

As a response to concerns regarding height revised plans have been submitted to lower both buildings by 600mm. This has been achieved by reducing the floor heights above the entrance level.

In terms of overall judgment the general layout and design aesthetic is considered acceptable. The building heights present a notable increase over the previous building height and previous building heights consented, that breach the equidistant height considering the properties either side. This presents some harm. However, when

considering the proposal in the round it is considered to largely accord with the aspirations of design policies DE1 and DE4 of the Local Plan and TH8 of the Neighbourhood Plan. This position balances the great weight that must be afforded harm to heritage assets with the benefits in terms of a well-designed but slightly discordant development, which would enhance the vitality of this part of Shedden Hill, contribute in terms of regeneration, and provide much needed housing in a very sustainable location.

In the round the scheme is considered suitably scaled, formed and detailed for the historical context in which it will sit. As such the proposal is considered substantially in accordance with design and heritage policies contained within the Development Plan and guidance contained within the NPPF.

The above conclusion has taken into account the public representations and conservation advice which include concern over its height and its general design. However having assessed the design merits of the proposal there is no demonstrable reason to refuse the application on design grounds. This conclusion has taken account of the statutory duty under the provisions of the Planning (Listed Buildings and Conservation Areas) Act 1990 for the local planning authority pay special attention to the desirability of preserving or enhancing the character or appearance of a Conservation Area and setting of the Listed church.

### **3. Residential Amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure a good level of amenity for future residents or occupiers and should not unduly impact upon the amenity of neighbouring and surrounding uses. The NPPF guides (Paragraph 130) 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, and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

In terms of the accommodation the scheme proposes 22 2-bed apartments and 3 3-bed apartments. The units vary in size from 85sqm to 161sqm.

#### Quality of living accommodation for future occupiers

Policy DE3 of the Local Plan which relates to development amenity requires that new residential units provide adequate floor space in order to achieve a pleasant and healthy environment. The Neighbourhood Plan is largely silent on the matter of amenity but does cite expectations for outdoor amenity space. Policy DE3 sets out guidelines for minimum floor space standards for new dwellings and apartments, which reflect the Government's National Space Standards. Two-bed (4person) apartments should have an internal area of at least 70sqm with 2sqm of additional storage and 3-bed (6person) apartments should be at least 95sqm with 2.5sqm of storage.

All apartments are considered to provide an acceptable scale of living accommodation with floor areas between 85sqm to 161sqm. In addition to the size of the space the

quality of the space should be considered, in terms of how it is positively influenced by natural light levels and outlooks. In this regard all apartments provide a good level of both light and outlook with adequate sized windows to all key spaces and suitable outlooks. The majority of the apartments are multi-aspect which presents naturally lit key rooms throughout.

Policy DE3 also seeks to secure the provision of usable outdoor amenity space, citing that apartments should deliver 10sqm per unit either individually or communally. The Torquay Neighbourhood Plan is in alignment with this guidance. The scheme provides private terrace/balconies to most apartments and there is some outdoor space at the lower level. The private balconies are not less than 10sqm but would provide usable and pleasant outdoor space with high quality views. Considering the central location, which often presents limited opportunity for outdoor space, and access to Tor Abbey Meadows, the level of outdoor space is considered acceptable to support a good quality living environment.

Policy W1 of the Torbay Local Plan states that as a minimum, all developments should make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated. Communal bin storage areas have been provided within the development and there is no objection to the proposals from the Council's Waste and Recycling Officer in terms of the capacity of the waste storage. The proposed bin storage facilities are considered acceptable and compliant with policy W1. There is a request for a financial waste obligation but this is covered in the S106 section of this report.

Cycle parking is provided in a safe and secure position in the linked under-croft between buildings. This supports a good level of occupier amenity.

Considering the various aspects that influence a good living environment the apartments are considered to provide a good standard of living accommodation for future occupiers, in accordance with policy guidance, notably Policy DE3 of the Torbay Local Plan and Policy THW4 of the Torquay Neighbourhood Plan.

#### Adjacent neighbouring amenity

Policy DE3 of the Local Plan states that development proposals should not unduly impact upon the amenity of neighbouring and surrounding uses.

In terms of general use the provision of apartments would present a use that would align with the adjacent residential uses and hence would not introduce a form of use within the plot that would sit uncomfortably aside these properties.

In terms of the position and scale the higher northern building will be set off the joint boundary by approximately 5.5m and will sit forward from the adjacent building, not dissimilar to other arrangements along Croft Road. Although there will be a clear presence from this building to the Villa to the north and its rear gardens, which is a building of multiple residential units, the relationship would not present undue impact through loss of outlook or loss of light. In terms of privacy and overlooking to the north the adjacent building is within multiple use and hence the gardens of the plot is not overly sensitive in terms of casual overlooking across the plot boundaries to the

gardens. The emphasis of the views and windows are seaward which also limits the perception of over-looking. There is also no undue inter-looking due to the staggered building positions, orientation, and distances involved.

In terms of the lower southern building the buildings are separated by the access route that provides some natural separation. The impact on the Heritage Hotel is limited due to the largely service character of the side of the building that addresses the development site, with windows largely serving corridors, which themselves offer some casual overlooking to the development site. The development would present no undue amenity impacts to the south due to the use, the form of development and the form of development adjacent.

Finally in terms of the temporary impacts of the construction phase there will naturally be some short-term impacts on the locality, however such impacts are not unusual and the effects can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. A traffic construction method statement has been submitted and is supported by the highway authority. Community Safety Team would wish to see details to limit dust, odours et, which can be dealt with through a planning condition.

With the addition of the recommended planning conditions the proposal is considered to be acceptable in terms of impact on neighbour amenity and therefore accords with Policies SS11 and DE3 in the Torbay Local Plan and the NPPF.

#### **4. Highways and Movement**

Policy TA3 and Appendix F of The Local Plan provides key policy guidance for residential developments. Apartments have an expectation of 1 space each, with some degree of visitor parking. There is also an appreciation that these standards can be reduced in more accessible and well-connected locations such as town centres. There is further advice on the provision of disabled parking and electric charging points. The Neighbourhood Plan supports levels of car parking aligned with those outlined within The Local Plan through Policy TH9.

The NPPF guides that in assessing specific applications for development it should be ensured that *a)* appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; *b)* safe and suitable access to the site can be achieved for all users; *c)* the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code, and *d)* any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 110). It also furthers (Para 111) that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

The development is to utilise the same access point that the former hotel used. There is no highway concern or objection where the former use would have presented not insignificant movements into and out of the site from the same location.

The proposal, following the receipt of clarifying plans, will deliver 35 spaces for 25 units, with 5 of those spaces being visitor spaces. 32 spaces are delivered in 2 undercroft floors of the southern building, with the 3 remaining spaces set outside and assigned for visitors. All units will be provided with 1 assigned space and 5 units will benefit from a 2<sup>nd</sup> tandem space. This means all units benefit from independently accessible parking spaces that accord with the level expected within the Development Plan. There are also 8 disabled spaces which exceed Development Plan expectations. The parking provision is considered acceptable, subject to a planning condition to secure at least 20% of apartments having access to electric charging facilities.

The development also has an assigned bicycle store between the buildings assessed off the parking floor. Development Plan seeks 1:1 cycle parking for apartments which means 25 independently operating spaces should be delivered. It is not certain that the level of cycle parking can be delivered in the 50sqm room and hence a planning condition should address this to secure a policy compliant level of cycle parking.

It is recommended that a condition is attached to secure the parking, electric charging points, along with the demarcation and retention of the visitor facilities, both car and cycle.

Considering the points above, and having regard to guidance contained within the NPPF which states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies TA2 and TA3 of The Local Plan, Policy TH9 of The Neighbourhood Plan, and guidance contained within the NPPF.

## **5. Ecology and Trees**

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy C4 seek the retention of trees and other natural features.

Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats.

Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 170).

The application is accompanied by an ecological assessment. The ecological assessment concludes that there are no ecological constraints and advises that to reduce the impact of artificial lighting external lighting should be designed to reduce any negative impact upon the local bat population, by being programmed to go off at certain times to create periods of darkness, and cowls/louvres used to avoid unnecessary light spill and direct light to where it is required. That the western boundary should not be illuminated to allow bats to forage/commute around the tree line. That the mature oak tree should be retained and protected by the development in accordance with British Standard 5837-2012 for trees and construction. And that the new buildings should incorporate bat & bird friendly features within their design and new landscaping should be designed to be beneficial to wildlife to address the National Planning Policy Framework guidance that seeks new development to maintain and enhance biodiversity.

In regard to trees the application is supported by a tree survey and tree constraints plan. The Council's Arboricultural Officer has reviewed the submitted detail confirmed that the proposal seeks to retain the important turkey oak, which is welcomed.

Having considered the submitted assessment, subject to conditions to secure enhancement features and restricted lighting, and tree protection measures as suggested, the development is considered acceptable on ecological, biodiversity and arboricultural perspective, for the reasons stated above, in-line with the aspirations of Policies NC1 and C4 of The Local Plan, The Neighbourhood Plan, and advice contained within the NPPF

## **6. 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 application is supported by a site specific flood risk assessment and detailed drainage strategy that proposes a controlled discharge to the Public Sewer system.

The Council's Drainage Engineer has considered the drainage proposals and following the receipt of revised plans that clarified some initial points, the proposal is considered suitable for approval on drainage and flood risk grounds, in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

A planning condition is recommended to ensure that a sustainable surface water drainage method is maintained for the life of the development.

## **7. Low Carbon Development and Climate Change**

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy ES1 seeks to ensure that carbon emissions associated with existing buildings (heating, cooling, lighting and energy consumption) are limited.

The submitted Design and Access Statement includes an Energy Statement that cites that the strategic approach to the development will be to reduce demand for energy consumption in the first instance (Be Lean) prior to the consideration of integrating low carbon / zero carbon energy sources (Be Clean and Be Green).

Be Lean design measures include:

- Passive design measures, including orientation and site layout, natural ventilation and lighting and thermal mass
- Active design measures could include high efficacy lighting and efficient mechanical ventilation,
- An efficient building form (floor plates stacked vertically)
- A low wall to floor ratio
- Enhanced U-Value targets (W/m<sup>2</sup>K)
- Enhanced air tightness
- Energy efficient LED light fittings and controls

Be Clean design measures include:

- Evaluate the feasibility of CHP, including the provision of cooling using the CHP waste heat.
- Evaluate building density is sufficient, a communal heating system should be adopted
- The communal heating network should be supplied centrally where all equipment is located, such as boilers, CHP etc. Accordingly, it should be demonstrated that space has been allocated, (ref.4524(22)001-P6-Proposed Level 01) where space of 38.2m<sup>2</sup> has been identified along with an additional 8.8m<sup>2</sup> in the adjacent villa.

Be green design measures include:

- For each technology considered to be suitable
- For the development, an estimate should be presented. This should include as a minimum: i. Number of units, proposed system size; efficiency of the system, estimated energy generation (in kWh/yr and as a percentage); estimated annual CO<sub>2</sub> savings and emissions reduction.
- Renewable solutions for consideration include; Solar Photovoltaic, Solar Photovoltaic to battery, Solar Thermal, Ground/Air Source Heat Pumps and Wind Energy.

Although an outline application the application is principally detailed with only landscaping reserved for later approval. The premise in the Energy Statement that detail should not be expected at outline stage is questionable in this context. Notwithstanding this the Energy Statement does present some clarity on the design process and potential to capture low carbon aspirations moving forward. The 'be lean' design concepts are supported, the 'be clean' and 'be green' concepts are also supported and outcomes should be captured by a planning condition for detailed solutions.

The development is, for the reasons above, considered suitable for approval subject to satisfactory conditions to secure the measures outlined within the application Energy Statement. The development is in accordance with Policy SS14 and ES1 of the Torbay Local Plan and advice contained within the NPPF.

## **8. Affordable Housing**

Policy H2 of the Local Plan states that affordable housing will be sought on brownfield sites of 15 dwellings or more, to meet the housing needs of local people. For a scheme of 25 units the policy expects 20% affordable housing with the method of delivery usually being on site, and that commuted sums will only be accepted where this would achieve more effective provision of affordable housing or bring significant regeneration benefits.

For a scheme of 25 units the policy position would be the delivery of 5 affordable housing units.

The proposal does not propose any affordable housing and the submission is supported by a financial viability assessment that seek to demonstrate that the development is unviable with affordable housing and hence cannot deliver any. Policy H2 and the adopted Planning Contributions and Affordable Housing SPD permits viability to be considered, with H2 citing that where developers wish to reduce significantly the level of affordable housing provision, an independent assessment of viability will be required, with the developer underwriting the cost of the viability assessment.

The applicant's viability assessment has been scrutinised by an independent third party instructed by the Local Planning Authority. The assessment process concluded that the initial viability, of there being a significant loss to build the scheme even without affordable housing, was not agreed. The viability was then reconsidered and represented with a revised viability position of marginal profit, again without any affordable housing. The independent review of the second viability position again disagreed with the conclusions presented for the following reasons.

The independent advice is that the estimated sales values do not reflect the recent market values of apartments in this prominent area of Torquay, and do not include the premium normally resulting from new build high-quality small-scale apartments. The discrepancy in value along with other small differences between the appraisals presents a disparity of 11% in the profit margin with the applicant concluding circa 5% without affordable housing and the advisor suggesting circa 16%. 16% would make the scheme marginally viable, within the PPG guidance range of 15-20% relating to profit margins for schemes. It was however highlighted by the applicant's consultant, that the revised viability assessment suggests further cost savings are possible which may make the scheme deliverable.

As the independent assessment has concluded that the schemes profit margin is more likely 16%, and that "further cost savings are possible", this combines to suggests the scheme is likely to be able to support some form of affordable housing.

In the context it is therefore recommended that a clause for a Late Viability Review be included in a planning agreement (s.106 obligation). The purpose being to reassess the gross sales values which will be achieved due to the opinion that the GDV will show the increased amount and therefore a surplus, which may provide an affordable housing contribution.

The conclusion above has been raised with the applicant and members will be updated on any relevant response. The recommendation cited within this report accords with the conclusions and current position above.

Officers' advice is that any resolution to grant planning permission should be subject to the viability review clause cited above unless an agreed provision is secured. In the absence of agreement of either a provision, or for the review clause, the recommendation is that the application should be refused as it fails to deliver much needed affordable housing when it has not been demonstrated that it is unviable. This is in accordance with Policy H2 of the Torbay Local Plan and the adopted Planning Contributions and Affordable Housing SPD.

## **9. Housing Supply**

The Council cannot currently demonstrate a 3- or 5-year housing land supply, as sought by Government. The five-year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the housing supply position, it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits should the 'tilted balance' be applied. Officer opinion is that any harm to the Conservation Area from the scale and height of the development is not significant and hence policies relating to heritage assets do not provide a clear reason for refusing the development proposed, and the 'tilted balance' is engaged.

### **Sustainability**

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

#### **The Economic Role**

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

development. The development would see the use of an empty site that has not been used for over 20 years.

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

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

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

### **The Social Role**

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

The site has not been used for over 20 years and the provision of housing would provide an appropriate use and offer units within a sustainable location.

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

### **The Environmental role**

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

The environmental benefits identified are marginal in the case of any biodiversity net gain, where it is proposed to require enhancement measures through condition.

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

It is concluded that the environmental impacts of the development weigh neutrally or slightly positively 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**

#### **CIL**

In terms of the Community Infrastructure Levy (CIL) new chargeable floor space will be liable. For sites of 15+ within Charging Zone 2 the rate is £70 per square metre of new gross internal floor space.

The submitted CIL form states that the development will provide 4096sqm of new floor space. This is unverified but based on this assumption the development would secure £ 286,720 as a CIL payment.

#### **S106**

Affordable Housing: Agreement of an agreed level of affordable housing, or the inclusion of an affordable housing review clause to reassess viability based on evidenced sales values and costs.

Site Acceptability Matters: None raised.

Sustainable Development Obligations: None, the development is CIL Liable. Requests, such as obligations for waste, should not be sought.

Other matters: The request from Torbay and South Devon Healthcare Trust seeking £10,322.00 towards the gap in funding from potential residents is not considered to meet the tests for necessary and reasonable obligations. The site is allocated for housing and there is a significant level of brownfield windfall development expected through the Development Plan. It is hence advised that this matter is not sought via a S106 agreement.

### **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: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites.

### **Planning Balance**

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

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

The proposal is considered acceptable in principle; would not result in unacceptable harm to the character of the area, or local amenity; would provide an adequate standard of living accommodation and is acceptable in terms of access, ecology and flood risk matters.

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**

Approval: Subject to;

Agreement of an acceptable provision of affordable housing, or the provision of an Affordable Housing Review Clause within a S106 Legal Agreement, signed within 4 months of the committee date. In the absence of either being secured the application (or reasonable progress being made to secure the S106 within a reasonable alternative timescale) to be refused, delegated to the Divisional Director of Planning, Housing and Climate Emergency;

Conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;

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

### **Conditions**

#### **Standard Time Condition:**

- that in the case of any reserved matter, application for approval must be made not later than the expiration of three years beginning with the date of the grant of outline planning permission; and
- that the development to which this permission relates must be begun not later than two years from the date of the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.

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

#### **Additional Conditions:**

## **Approved Plans Condition**

### **Reserved Matters Condition**

An application for the following reserved matters shall be submitted to the Local Planning Authority for its approval in writing:

- i. landscaping.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent. New landscaping should be designed to be beneficial to wildlife in accordance with the submitted ecology report.

Approval of all reserved matters shall be obtained from the Local Planning Authority in writing before any development is commenced, and the development shall be undertaken in accordance with the approved reserved matters.

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

### **Construction/Demolition Management Plan (Amenity)**

No development shall take place until a site specific Construction/Demolition 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.
- Details of site hoardings

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, in accordance with Policy DE3 of the Torbay Local Plan 21012-2030. These details are required pre-commencement in order to establish construction parameters that protect against undue impact prior to work commencing.

### **Construction Traffic Management Plan**

The development shall proceed in accordance with the submitted and approved Construction Traffic Management Plan (document ref. C21202-ADV-RP-CTMP-1001(C)).

Notwithstanding detail within the submitted and approved Plan construction operation hours on Saturdays shall, including deliveries, be between 0900-1300 only.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, in accordance with Policy DE3 of the Torbay Local Plan 21012-2030.

### **Planting**

All planting, seeding or turfing comprised in the approved details of landscaping reserved matters pursuant to Condition 01 shall be carried out in full within the first planting and seeding season following the occupation of the buildings or the completion of the development whichever is the sooner, or at such other time as agreed by the Local Planning Authority in writing.

Any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: To secure an appropriate form of development in accordance with policies NC1, C4 and DE1 of the Torbay Local Plan 2012-2030.

### **Tree Protection Measures**

Prior to the commencement of development the tree protection measures as outlined within the approved Tree Protection Plan shall be implemented in full. The tree protection measures shall then be maintained in full throughout the construction phase.

The construction process shall accord with the accompanying Addendum Report (HI-Line CT\_6279.21, dated 10.11.2022).

Reason: In order to ensure against harm to mature trees, in accordance with Policy C4 of the Torbay Local Plan 2012-2030. These details require implementing prior to commencement to ensure retained trees are duly protected from potential harm.

### **Landscape and Ecological Management Plan**

Prior to the first occupation of the development a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, shall be submitted to the Local Planning Authority and shall include, but not be limited to, the following.

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Reason: To secure a satisfactory form of development in accordance with Policies SS8, C4 and NC1 of the Torbay Local Plan 2012-2030 and TH8 of the Torquay Neighbourhood Plan.

### **Surface Water Management**

Prior to the first occupation of the development the surface water management system outlined in the submitted and approved drawing number C001 revision B (Drainage Strategy) and drawing number C002 revision A (Impermeable Area Plan) shall be implemented in full to serve the development.

The approved surface water management system shall be retained and maintained for the lifetime of the 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 guidance contained in the NPPF.

### **Materials**

Prior to the commencement of development above damp proof course level (excluding demolition and/or excavation) details of the following shall be submitted to and approved in writing by the Local Planning Authority;

1. A sample of the proposed roof slate, which shall be natural slate.
2. Details of the proposed metal cladding, including form and colour.
3. Details of all means of enclosures, to include details of the front boundary wall (detailed design and finish).
4. Details of all exposed rainwater goods, vents, pipes, plant or similar.

Development shall take place in accordance with the approved details and shall be retained and maintained as such for the lifetime of the development

Reasons: In order to protect visual character in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

### **Colour**

Notwithstanding detail on the plans hereby approved an alternative render colour palette shall be submitted to and approved in writing. The proposed colour palette shall seek to respond to the context and present two distinct buildings. The approved colour scheme shall be implemented in full prior to the first occupation of the development and retained thereafter.

Reasons: In order to protect visual character in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

### **Detailed Design**

Prior to the installation the following details, to a scale between 1:1 and 1:5 where appropriate, shall be submitted to and approved in writing by the Local Planning Authority;

- All window and doors frames and means of opening
- Detailed design of all railings
- All sill and head details to apertures
- All reveal depths

In accordance with the approved plans all glazed balconies and terraces shall be finished in frameless glass.

The development shall proceed in full accordance with the approved detail.

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan, and the NPPF.

### **Parking Provision**

Prior to the first occupation of the development the approved parking shall be implemented in full and all spaces shall be demarked for their purpose, including visitor spaces, and made available to serve the development.

These elements shall thereafter be retained for the use of the associated development for the life of the development.

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

### **Electric Charging Provision**

Prior to the first occupation of the development details confirming the location and provision of at least 20% of the units having access to electric charging points shall be submitted to and approved in writing by the Local Planning Authority.

The apartments shall not be occupied until the approved electric charging facilities have been implemented and made operational and available for use. The approved charging facilities shall be retained and operational at all times thereafter.

Reason: To secure an acceptable form of development in accordance with Policies TA3, SS14 and ES1 of the Torbay Local Plan 2012-2030.

### **Cycle Parking**

Prior to the first occupation of the development details showing secure cycle storage for at least 25 cycles shall be submitted and approved in writing by the Local Planning Authority.

The approved cycle storage shall be completed and made available for the purpose of cycle storage to serve the development prior to the first occupation of the buildings. Once provided, the agreed storage arrangements shall be retained for the life of the development for such purposes.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030.

### **Waste**

Prior to the first occupation of the development the waste and recycling storage facility, as detailed within the approved plans, shall be completed and made available for the purposes of waste storage to serve the development. Once provided, the agreed storage arrangements shall be retained for the life of the development.

Reason: In interests of amenity and in accordance with policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030.

### **Permitted Development**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015 (or any Order revoking or revising that Order) the following forms of development are not permitted, unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority;

- No additional or different means of enclosures,
- No additional hardstandings.

Reasons: In order to protect visual amenity and the amenity of future occupiers by maintaining a satisfactory form of development and outdoor amenity spaces within a restricted site, in accordance with Policies SS10, DE1 and DE3 of the Torbay Local Plan 2012-2030.

### **Ecology 1 - Nesting Season**

The removal of vegetation shall be undertaken outside of the bird nesting season (March-September inclusive). If not practicable demolition and/or vegetation removal shall be undertaken only immediately following an inspection of the site by a suitably qualified ecologist to confirm the absence of nesting birds. If nests are found no works shall be undertaken until the birds have fledged and a buffer zone of at least 5 metres must be established around the nest and an effective barrier put in place to ensure this remains undisturbed

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

### **Ecology 2 – Biodiversity**

Prior to the commencement of development above damp proof course level (excluding demolition and/or excavation) details of biodiversity enhancement measures, which shall include bat roosting and bird nesting facilities, shall be submitted to and approved in writing by the Local Planning Authority.

The approved measures shall be implemented in full prior to the first occupation of the buildings and maintained for the lifetime of the development.

Reason: To secure biodiversity enhancements in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

### **External Lighting**

Prior to the first use of the development a scheme detailing all external lighting shall be submitted to and approved in writing by the Local Planning Authority.

The scheme shall seek to reduce the impact of artificial lighting and external lighting shall be designed to reduce any negative impact upon bats. The lighting scheme shall detail measures including programming to create periods of darkness, and cowels/louvres used to avoid unnecessary light spill and direct light to where it is deemed required and shall demonstrate that the western boundary is not illuminated.

Development shall take place in accordance with the approved details and no addition external lighting shall be provided.

Reason: To secure an acceptable form of development in accordance with Policy NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

### **Energy / Low Carbon**

Prior to the commencement of development of the build process above finished floor level (excluding demolition or general groundworks), details of the proposed measures to deliver low carbon development, and energy efficiency measures, shall be submitted for the approval in writing by the Local Planning Authority. The approved measures shall be fully incorporated within the development prior to its first use.

The measures shall respond to the details outlined within the submitted and approved Design and Access Statement (Section 7. Energy Statement), and shall specifically respond to the energy consumption and energy production measures outlined in the 'Be Clean' and 'Be Green' subsections.

The approved measures shall be implemented in full prior to the first occupation of the development and maintained thereafter.

Reason: In the interests of sustainable development and in accordance with Policies SS14 and ES1 of the adopted Torbay Local Plan 2012-2030 and the NPPF.

### **Secured by Design**

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

The approved measures shall be implemented in full prior to the first occupation of the development.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy TH2 of the Torquay Neighbourhood Plan.

### **Dwelling Use / Small HMO PD**

Notwithstanding the provisions of Schedule 2, Part 3, Class L (small HMOs to dwellinghouses and vice versa), of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), all residential units hereby approved shall be used and occupied solely as Class C3 Dwelling-houses, by: (a) a single person or single household; (b) a single household of not more than 6 residents where care is provided; or (c) a single household of not more than 6 residents, and for no other purposes.

Reason: In order to ensure a satisfactory form of development in accordance with Policy SS11 of the Torbay Local Plan 2012-2030.

### **Informative(s)**

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**

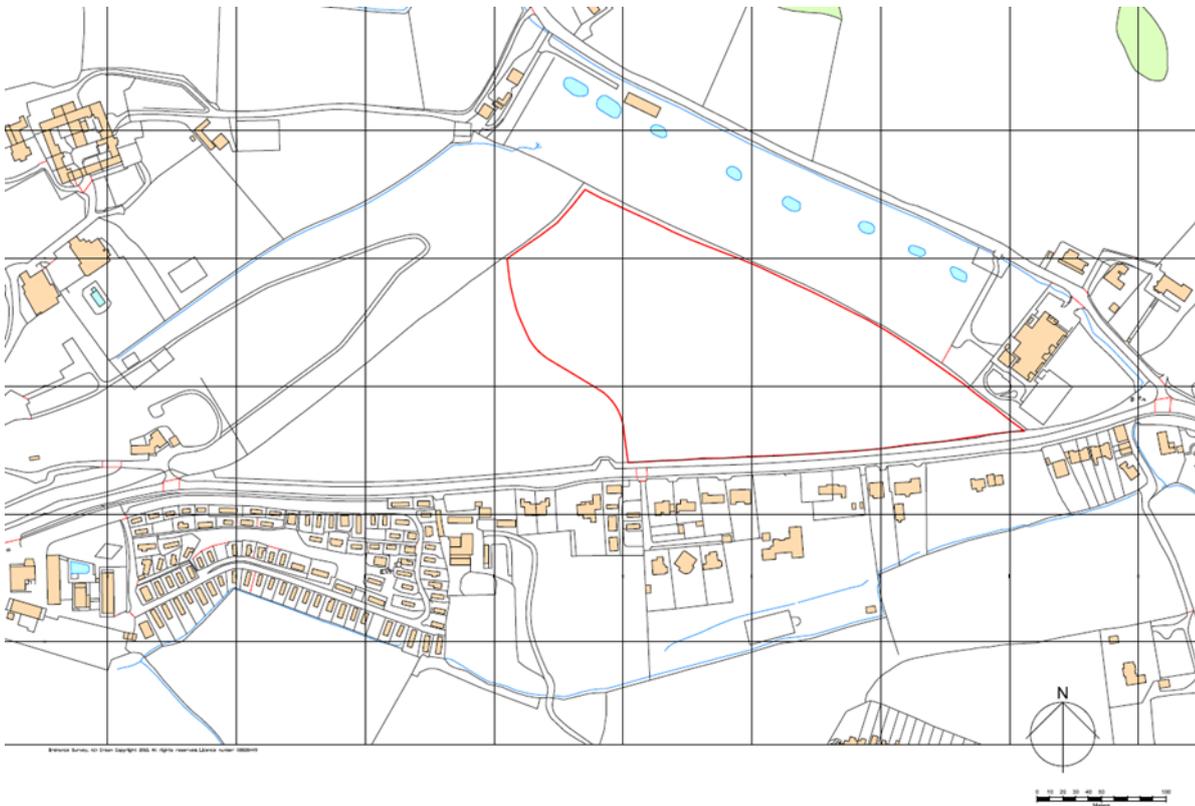
Development Plan Relevant Policies

- SS1 - Growth Strategy for a prosperous Torbay
- SS3 - Presumption in favour of sustainable dev
- SS8 - Natural Environment
- SS9 - Green Infrastructure
- SS10 - Conservation and the historic environment
- SS11 - Sustainable Communities Strategy
- SS12 - Housing

SS13 - Five Year Housing Land Supply  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 - Parking requirements  
C4 - Trees, hedgerows and natural landscape  
H1 - Applications for new homes  
DE1 - Design  
DE3 - Development Amenity  
ER1 - Flood Risk  
ER2 - Water Management  
W1 - Waste management facilities  
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development  
TS4 - Support for Brownfield and Greenfield development  
TH8 - Established architecture  
TH9 - Parking facilities  
TE5 - Protected species habitats and biodiversity  
TH2 - Designing out crime  
TTR2 - Sustainable Communities  
THW4 - Outside space provision  
THW5 - Access to sustainable transport

Application Site Address	Land To The North Of Totnes Road, Collaton St Mary, Paignton
Proposal	Reserved Matters relating to Outline Application P/2019/0604. Matters for approval: Details of appearance, landscaping, layout, and scale, as stated in Appeal Condition 01 (revised documents received 24 October 2022).
Application Number	P/2021/1180
Applicant	Taylor Wimpey
Agent	Copperfield
Date Application Valid	03.03.2022
Decision Due Date	02.06.2022
Extension of Time Date	19.12.2022
Recommendation	<p>Approval: Subject to;</p> <p>The resolution of identified highway matters to be delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of detailed design elements of the surface water drainage system, to the satisfaction of the Councils Drainage Department (Lead Local Flood Authority), to be delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The receipt of satisfactory detail clarifying the conclusions made within the submitted ecology report regarding cirl bunting and dormice, to the satisfaction of the Divisional Director of Planning, Housing and Climate Emergency, in consultation with Devon County Council Ecologist.</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional 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	Major Development.
Planning Case Officer	Scott Jones



## **Site Details**

The application site is part (approximately half) of a triangular field adjacent to the Totnes Road (A385) close to Collaton St Mary on the western outskirts of Paignton. The site has historically been known locally as the “Car Boot Field”. The eastern half of the field which the application relates to is the lower half, where the land drops from west to east. The field measures approximately 7.2 hectares in area and the application site is 4.5 hectares.

The northern and eastern boundaries of the site are clearly defined by existing hedges. The southern boundary that runs along the edge of the Totnes Road is a mixture of rural estate railings, scrub hedging and intermittent trees adjacent to a linear grass verge, which permits public views across the field to the rising rural landscape to the north and east. The western boundary of the application site dissects the open field.

There is currently no vehicular access to the application site as the sole access point to the wider field is to the west within the upper part of the wider field. There is a pavement along the southern side of the Totnes Road however the northern side, along the site boundary, is a grass verge with no pavement.

On the opposite side of Totnes Road there is existing residential development in a predominantly linear ribbon form. These dwellings are generally set back from the road and the street form is broken up by large trees and landscaping, to the extent that the run of properties does not overtly read in close or distant views as an urban edge. To the west of the site there is a camping and caravan park. To the north and east there is open countryside land.

There are a number of heritage assets nearby. To the east off Bladgon Road there is the Grade 2\* listed Church of St Mary, and Grade 2 Old School House and Old Vicarage. Again to the east on the south side of Totnes Road close to the junction of Bladgon Road there are a further four Grade 2 listed properties, 391-397 Totnes Road. 300 metres to the west of the site is another Grade 2\* listed building, the 16th century Bladgon Manor.

In the Torbay Local Plan the site is identified as part of the wider Collaton St Mary (Paignton North and West Area) Future Growth Area. It is also a site identified for housing within the Collaton St Mary Masterplan, which is an Adopted Supplementary Planning Document for the area (adopted February 2016). In terms of other relevant context the valley floor to the north/east of the site (close to the Blagdon Road) is a linear area with an identified risk of flooding.

### **Description of Development**

This is a reserved matters application that is seeking approval for the layout, scale, appearance and landscaping for 73 dwellings following the grant of outline consent under application reference P/2019/0604 for up to 73 dwellings. The outline consent granted detailed access with the creation of a single vehicular access off the Totnes Road (A385) with proposed highway works to re-align the Paignton-bound carriageway to facilitate a designated right hand turn lane into the site.

In accordance with the outline consent the proposal is for 73 dwellings offered in a general layout and form that accords with the indicative plans submitted and considered at outline stage. The proposal includes the provision of 22 affordable units in accordance with the outline consent.

In terms of layout the proposal respects the indicative layout presented at outline stage with the approved single access passing past open space in the eastern corner of the site, that features an attenuation pond feature/habitat and informal public orchard, before splitting to create a simple looped form of development fronted by dwellings. As with the outline layout there is an equipped play area in the southwest corner of the site near to the Totnes Road, which is the high point of the site.

In terms of built form the buildings are all two-storey with pitched roofs, although there are 4 dwellings that are described as 2.5 storey with accommodation within the roof. There are 4 apartments within the development where there is a vertical subdivision of the building. There is a mix of detached, semi-detached and short terraces through the scheme. Open market housing presents a mix of mostly 3 and 4 bed units but there are 6 5-bed units. The Affordable Housing units are a mix of 1-4 bed units.

Materials are varied through the scheme with a mix of rough render, stone, red brick, and grey concrete hanging tiles, under grey concrete roof tiles. Stone is detailed on the principal elevations of buildings clustered around a landscaped space in the northwest corner of the site.

All dwellings are supported by parking which is a mix of driveway, garages, courtyard and off-street facilities. There are also 3 street parking spaces near to the entrance.

### **Pre-Application Enquiry**

N/A.

### **Relevant Planning Policy Context**

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

## **Development Plan**

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

## **Material Considerations**

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Collaton St Mary Masterplan
- 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**

### Applications

P/2020/0405: Outline application for up to 73 dwellings (including market and affordable housing) with all matters reserved, except access arrangements to be provided directly onto Totnes Road via access junction. Approved.

P/2019/0604: Outline application for up to 73 dwellings with all matters reserved except access, new access onto the Totnes Road. Refused on grounds of flood risk. Appeal Upheld.

P/2017/1304: Full application for 94 (reduced from 97) dwellings, with access, landscaping and infrastructure. Officer Recommendation: Refusal, for reasons of design, amenity, landscape impact, impact upon heritage assets, highway safety, and flood risk. Application withdrawn prior to committee and not considered by Members.

P/2013/0572: Outline application for proposed residential development (up to 175 units) and associated development including provision of open space, landscaping, ponds and other associated development. All matters reserved for further consideration except access. This is a departure from the Local Plan. Refused. Appeal Withdrawn.

P/2012/1037: Full application for development to include 197 residential units, a local centre building (ground floor only) comprising Use Class A1 floor space of 460sqm new vehicular access to Totnes Road, internal road layout, car parking, open space, landscaping, ponds, services and infrastructure and all other associated development. Refused.

### Related Design Review Panels

*March 2016 DRP (Pre-application DE/2015/0454):*

*Summary of key points:*

*There appears to be a gap between the analysis of the site and the vision projected for the development - the essential proposition needs to be rural rather than suburban.*

*The layout needs to be influenced and informed by a 'place-making' approach, rather than one led by the road layout. Roads need to become streets, parking needs sensitive handling and landscape design needs to reinforce the character of the development. If the form of the streets become less regular then their character becomes more rural and opportunities are created along them for parking, etc.*

*Once a more successful layout has been developed then clear parameter plans ought to be prepared and adopted through a condition in the planning permission which capture the*

*essential strategies of the layout and ensure that there is no slippage between an outline consent and any reserved matters submissions.*

*The way in which the layout and individual house types respond to the slope should be assured and effortless - it ought to be an ambition of the development to achieve the least amount of earth-moving and levelling of the site in order to make a viable development.*

*The site continues to be in a sensitive location and accurate landscape and visual impact assessments should be used to test the revised ideas before submission.*

*The connections from this new community to the other parts of Collaton St Mary need to be more confidently attempted - in order that active modes of travel (walking and cycling) are firmly promoted.*

*See great potential in this residential development and believe that it could be a highly desirable and therefore high-value opportunity - providing that the design ambition captures all the opportunities of this potentially beautiful site.*

*September 2012 DRP (Application P/2012/1037):*

*Summary of key points:*

*The design does not make a good case for a major incursion into this relatively unspoilt valley setting.*

*Perceive the proposals to be a fairly standard suburban character is being imposed on a landscape setting which is essentially rural.*

*The architectural design is undistinguished.*

*The landscape strategy needs to integrate more successfully and could be used to sub-divide and reduce the scale.*

*Anticipate that the quantum of development would need to be reduced dramatically.*

### **Summary of Representations**

7 letters citing objections have been received. The summary of concerns is as follows;

Reasons for objection relevant to this Reserved Matters application for layout, scale, appearance and landscaping:

- The style and layout of the dwellings proposed for this development must be of a build and aesthetic quality such as to be in keeping with the village of Collaton St Mary.
- The fullest attention must be given to the landscaping and greening and greenspaces of this proposed development so as not to detract from the village's rural appeal and surroundings.
- Surface water capacity
- Ecological mitigation unsatisfactory
- Impact on listed buildings should be duly considered
- Street lighting should be limited

Reasons for objection not relevant to this Reserved Matters application for layout, scale, appearance and landscaping:

- Loss of countryside and wildlife.
- Access
- Strain on our doctors, dentist, and schools.
- Traffic, Roads, parking in the road already a problem, access in and out (school times) an accident waiting to happen.
- More strain on our hospitals.
- Already problems with drainage of water.
- Sewage pipes have caused problems in the past.
- Roads & junctions already highly congested.
- Village school already fully allocated.
- An increase of vehicular traffic would exacerbate the symptoms of breathing sufferer
- Impact on emergency vehicles moving in the area
- Sewage capacity
- Too many houses
- Impact on school capacity
- Unaffordable for locals

## **Summary of Consultation Responses**

### **Paignton Neighbourhood Forum**

No comments.

### **South Hams AONB Office**

No objection.

### **Torbay Council Housing Strategy and Enabling Officer**

The Unilateral Undertaking states the applicant will provide 30% onsite affordable housing on 1/3, 1/3, 1/3 split in line with Policy H2.

The applicants have provided 7 social rent, 7 affordable rent and 8 shared ownership within the submitted Affordable Housing Plan, which is just above 30% of all units.

There is commitment within the UU for 5% of the affordable units (ie 1 unit) to be provided as an Adapted Dwelling, in compliance with Policy H6. The application does not appear to mention adapted units within the Planning Statement or Design Statement and, although the house type designs are provided as part of the submission, clarity on which units will be delivered to adapted standards as per Annex X of the UU would be welcome.

I would suggest this is a good Affordable Housing scheme. The affordable housing dwellings are spread across 4 clusters on the site. There is a good range of house types, including up to 2 x 4 beds.

Aside from a few points of clarity on wheelchair units, I don't see any grounds for objection from an affordable housing or policy perspective.

### **Ecology Advisor (Devon County Council)**

The majority of previous queries have been dealt with. Clarification from the consultant ecologist with regards to dormice and Cirl Buntings, which were not recorded at the time of the outline application, is still needed.

Ecological walkover surveys undertaken by EAD Ecology in May 2019 state that the site remained unchanged from 2016. It was very unlikely that cirl buntings and dormice had moved onto the site at the time of the outline application in 2019, and therefore updated surveys for these species were not required for the determination of the outline application. However,

given these surveys are now 6 years in age, there is a possibility that they have moved onto the site by the time this reserved matters application was submitted in 2022.

*(Officer comment: Clarification has been sought and received from the applicant's consultant on the outstanding matter regarding assumptions made on cirl bunting and dormice given the date of previous surveys. The response is currently being considered by the Devon County Ecologist).*

### **Natural England**

No Objection.

### **Green Infrastructure Manager (Swisco)**

Further review of the landscape proposals indicates that most of the points have been addressed.

One key feature was the substitution of the Beech trees that have now been annotated as London plane. I would suggest that, given the rural setting of the site, English oak are a more suitable species and would also potentially positively impact the BNG of the site for the future. This has now been addressed through revisions submitted 21.11.2022.

The overall appearance of the and impact of the landscape scheme reflects the character of the landscape and provides for the immediate, local and wide landscape in the area.

The comments provided by CSA environmental address the concerns raised and there is scope going forward to iron out minor detail as it arises. In particular the movement of plants, which out of our control, and instructed through DEFRA to control/contain the spread of plant pathogens.

### **Waste and Recycling Officer (Swisco)**

Would clarify that SWISCo will not drive on to unadopted highway to collect waste and recycling, unless an indemnity is in place. I could not determine whether there are plans for the roads to be adopted from the application.

In addition I have looked at the S38 plan and the waste management plan and have the following additional comments regarding individual plots;

- Plots 17, 18, 72 & 73 - Waste Management plan shows vehicle driving on to an area of what is proposed to be unadopted highway. Residents would need to bring the recycling and waste up the driveway to the adopted highway for collection.
- Plots 19, 20 and 21 the collection teams would not collect from the marked locations in the driveways, residents would need to bring recycling and waste to the adopted highway for collection.
- Plots 53, 54, 55 and 56 – the collection teams would not walk up the footpath to collect recycling and waste, instead on collection day residents will need to bring their containers so that they are accessible from a piece of adopted highway that our collection vehicles can drive on to.

It is also worth noting the recent changes to recycling and waste collection in Torbay which now includes a blue bag for paper recycling and the option to subscribe to a fortnightly garden waste collection, which uses a 240 litre wheeled bin. The bin stores where used will need to be big enough to house 2 x 55 litre recycling boxes; 1 x bag for paper; 1 x 23 litre food waste bin and 1 x 240 litre wheeled bin for refuse. If properties have a garden they should have enough space to store an additional 240 litre wheeled bin for garden waste.

I'd also like to request waste management contributions for this development, in line with the table below. I note that properties will be provided with individual recycling and waste containers, so the higher rate would not apply to this development.

**Drainage Engineer (Torbay Development Agency):**

1. The proposed discharge rate to the watercourse is 7.4l/sec which complies with the requirements of the Torbay Critical Drainage Area.
2. Within the support documentation the developer has included drawings showing the proposed drainage layout together with the hydraulic drainage design.
3. The developer has submitted drawing number 0120 Revision P2 which is identified as an impermeable area plan. This plan identifies the impermeable areas for each property, driveway and roads however it does not identify the impermeable areas connected to each pipe length within the hydraulic model. This information is required to confirm that the input data to the hydraulic modelling corresponds to the data shown on the drawings.
4. The revised drainage design that has been submitted now includes the node details however this only allows a check of the manhole cover levels included within the hydraulic model. As previously identified none of the pipe data for the drainage network (manhole invert levels, pipe diameters, pipe lengths and pipe gradients) have been included within the hydraulic modelling and therefore it is not possible to check that the data included within the modelling matches the data identified on the drainage layout drawings. The developer must supply all of the input data to the hydraulic modelling in order that this can be checked. This data must include manhole invert levels, pipe numbering, pipe lengths, pipe diameters, pipe gradients and impermeable area connected to each pipe length.
5. In order to confirm that the attenuation pond has been modelled correctly within the hydraulic model the developer must provide a detailed drawing showing the size of the attenuation pond at varying depths. This will allow the proposed volume of the attenuation shown on the drawing to be checked against the volume included within the hydraulic modelling.
6. The only details provided for the private attenuation system on the drainage layout is a storage volume. No details of the dimensions of the storage tank or the invert level of this storage tank are provided on the drawings. These are required in order to confirm that the input data to the hydraulic model match that included on the drawings.
7. Once the above information has been submitted, I will be able to confirm whether the surface water drainage has been designed in order that there is no risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change.

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

*(Officer comment: Further detail has been submitted that seeks to address the points raised and is currently being considered by the Councils drainage engineer).*

**South West Water**

The applicant/agent is advised to contact South West Water if they are unable to comply with our requirements as detailed below.

Asset Protection

No development will be permitted within 3.5 metres of the water main on site. The water main must also be located within a public open space and ground cover should not be substantially

altered. Should the development encroach on the 3.5 metre easement, the water main will need to be diverted at the expense of the applicant.

#### Clean Potable Water

South West Water is able to provide clean potable water services from the existing public water main for the development. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

#### Foul Sewerage Services

South West Water is able to provide foul sewerage services from the existing public foul or combined sewer in the vicinity of the site. The practical point of connection will be determined by the diameter of the connecting pipework being no larger than the diameter of the company's existing network.

#### Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable). Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that method proposed to discharge into a surface water body is acceptable and meets with the Run-off Destination Hierarchy.

#### **Police Designing Out Crime Officer**

Crime, fear of crime, ASB and conflict are less likely to occur if the following attributes of Crime Prevention through Environmental Design (CPTED) are considered in the design and layout of the proposed scheme:-

Access and movement (Permeability) - Places with well-defined routes, spaces and entrances that provide for convenient movement without compromising security.

Access to the primary school should be via a secure gate which can be on a time lock to allow access during school opening and finish time, this will aid to prevent unauthorised access and prevent children from absconding during school time. It is recommended that the gate is a minimum height of 1.8m, to the standard of LPS 1175 8A1 or equivalent, care should be taken to ensure the gates construction does not act as a climbing aid.

It is recommended that the adjoining boundary treatment to the gate is a weldmesh fencing to the same height as the gate and same security standard. The use of a dark colour finish to fencing reduces the reflection of light.

Structure – (Design & Layout) - Places that are structured so that different uses do not cause conflict

Surveillance (Natural, Formal & Informal) - Places where all publicly accessible spaces are overlooked.

Ownership - Places that promote a sense of ownership, respect, territorial responsibility and community.

Physical protection - Places that include necessary, well-designed security features as required by ADQ and SBD Homes 2019

It is recommended where pathways are being used to give access to multiple rear gardens, gates should be installed flush with the front of the dwellings so not to create unnecessary recessed areas.

Request a condition is put in place to ensure that gates to rear gardens are lockable from both sides, by means of a key for example. To prevent unauthorised access into the garden.

It is recommended that the fence and gate giving access to the bat/ecology corridor at the rear of plot 46 should be moved to be flush with plot 45 which will prevent public access around the rear of both plots which can increase the risk of ASB and the fear of crime. The access gates to the bat/ecology corridors should also be lockable to prevent unauthorised access into these areas.

Activity - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.

Management and maintenance - Places that are designed with management and maintenance in mind, to discourage crime in the present and the future.

### Parking

The amount of tandem parking does cause a concern as it is likely that from a practical and convenient point of view only one of the spaces will be used meaning that they are likely to park elsewhere which can create vehicle and parking related problems which the police can spend a lot of time dealing with.

Parking bays should be clearly allocated and marked including visitor spaces to prevent potential conflict over the use of these.

There is the potential for increased traffic and parking within the development during the school pick up and drop off times especially with the access route to the rear of the school, which could cause potential conflict between residents and parents picking their children up during these times if parking becomes an issue.

### Highway Authority (Swisco)

Outstanding points regarding highway matters:

1. Require Personal Injury Collision (PIC) data for the latest available five-year period. (*Officer comment – not required, the amount of development and access is established*)
2. The recently submitted swept path analysis illustrates that a HGV accessing / egressing the site simultaneously would result in a collision – this is not acceptable in the interest of Highway Safety. The applicant will be required to amend the swept path analysis.
3. Required the car parking layout plan to include electric charging facilities. (*officer comment – condition suggested to secure EV charging facilities*).
4. Request that the applicant submit a Construction Management Plan for the site to provide an analysis of the construction phase of the development upon the operation of the local highway network. (*officer comment – covered under a pre-commencement condition on the outline application*)
5. Prior to marketing dwellings, a Travel Plan and Implementation Strategy with SMART targets to seek to meet minimum Policy requirements of 30% modal shift to foot, cycle and public transport, for all users, with appropriate monitoring, reporting and mitigation measures should these targets not be met, shall be submitted to and approved in writing by the Local Planning Authority. The approved Travel Plan is to be implemented for the lifetime of the development (or in accordance with the provisions of the Travel Plan). (*officer comment – covered under a condition on the outline application*)
6. Amend the Site Layout / Design to include the points raised below:

1. Provide a service strip on side of road from opposite no 41 to no 45 on Western side of the site. *(Agent response: If this relates to having a service strip on the southern side of the road fronting plots 41-45 then this is adjacent to the POS and can be addressed via an informative on a Decision Notice to align with any future highway adoption).*
2. Extend parking bays to provide a drop off adjacent former Orchard to no 73's access
3. Conform with the Car and cycle parking for the proposed development should be provided in accordance with the Torbay Local Plan (2012 – 2032) Parking Standards (Appendix F) as well as with guidance contained within the Torbay Council Highways Standing Advice document. *(Agent response: all parking accords with the local plan standards)*
3. Confirm if trees either side of carriageway are to be adopted as Highway Trees outside 1 to 6. *(Agent response: no trees in the highway)*
4. Show shared footway crossings on Blagdon Road as 3m on each side of the junction.
5. Provide Double Yellow lines around the junction and on the eastern side of road down to the bend outside no 72. *(Agent response: This is a S.38 matter rather than a planning one. Its also not an RM for the purposes of this application).*
6. Relocate link to school further south at the junction with path and shared cycle way. *(Agent response: There is potential to relocate the footpath link to the school, subject to RPZ constraints. It is suggested that any re-location could be agreed by condition prior to installation. Relocation would need to be agreed with the School).*
7. Provide a footway outside no 33. *(Agent response: There is a footpath on at least one side of the road around Plot 33. It may be possible to include an extra length but I need confirmation from the architect).*
8. Provide Lighting Schedule for northern road adjacent Bat corridor.  
Lighting drawing has been included (ref. 4244-LB-EX-XX-DR-E-8080-41)
7. Provide a Section 38 Drawing indicating Proposed adoption areas with a red Boundary.  
Replacement drawings have been provided – forward visibility splays should be shown for all bends within the internal layout & areas intended for adoption within these visibility splays. *(Agent response: these have already been provided to the LPA).*
8. The layout and adopted HMPE (and or potential active travel) routes should, where possible, extend to the boundaries with no ransom please, even if it is not metalled.

### **Planning Officer Assessment**

1. The Principle of Development,
2. Design and Visual Impact,
3. Landscaping,
4. Heritage Impacts,
5. Residential Amenity,
6. Highways, Movement and Parking,
7. Ecology,
8. Flood Risk,
9. Low Carbon Development,
10. Affordable Housing,
11. Housing Supply.

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

Outline consent has been granted for up to 73 dwellings pursuant to planning permission P/2019/0604. This has established that the principle of 73 dwellings served off an approved detailed access arrangement off the Totnes Road is acceptable. This Reserved Matters application is solely to consider the Layout, Scale, Appearance and Landscaping as the principle has been established.

In terms of relevant matters of principle the proposed development accords with the outline

consent in terms of delivering a layout aligned with the indicative masterplan considered at outline stage, served off the detailed access approved at outline stage.

Subject to ensuring that the proposal provides an acceptable form of development, in terms of securing a suitably designed scheme, a good quality living environment and one that retains adequate amenity levels for adjacent occupiers, whilst also according with the conditions attached to the outline consent, the principle is considered acceptable.

In terms of determination it is relevant to appreciate that the Council cannot currently demonstrate a 3 or 5 year housing land supply and for decision making this means that the policies most important for determining applications for housing in the Neighbourhood Plan and the Local Plan are considered to be out of date. The policies therefore should be afforded limited weight within the current decision-making process. The principle of housing has been established through the outline consent. In terms of determination of applications for housing the 'tilted balance' guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. In regard to applying the 'tilted balance' it is relevant to note that there are heritage considerations due to the site sitting within the setting of a Grade 2\* Listed Church and other Grade 2 listed buildings. As concluded within this report there are no heritage reasons that provide clear reason for refusing the application, so the 'tilted balance' is considered applicable. This guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Notwithstanding the NPPF and the 'tilted balance' guidance, this does not displace the primacy of the Development Plan.

Due to the reasons stated above the principle of residential development on this site is accepted, when considering strategic policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies PNP1 and PNP24 of the Paignton Neighbourhood Plan, and the Development Plan as a whole, subject to other material considerations, which will be discussed in more detail below.

## **2. Design and Visual Impact (Layout, Scale and Appearance)**

The NPPF states (Paragraph 126) that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve and furthers that good design is a key aspect of sustainable development. Several expected design outcomes follow in Paragraph 130 and the Framework furthers, in Paragraph 134, that development that is not well designed should be refused.

There is consistency with the NPPF across Local Plan Policies SS2 (Future Growth Areas), SS11 (Sustainable communities) and DE1 (Design). Policy SS2 seeks development to integrate with existing communities and reflect landscape character, Policy SS11 states that development must help to create cohesive communities within a high-quality built and natural environment. The policy also includes expectations for development to help develop a sense of place and local identity, deliver development of a type, scale, quality, mix and density appropriate to its location, and protect and enhance the natural and built environment. Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

In terms of further policy context design outcomes are also prominent within the Paignton Neighbourhood Plan with PNP1 (Area Wide) including reference to enhancement of local identity, PNP1(a) citing the importance of development responding positively to its context when in the Rural Character Area, PNP1(c) again identifying the importance of strengthening local identity, and PNP19 (Safeguarding the open countryside) and PNP24 (Collaton St Mary)

both express the importance of sensitive development within the rural context.

### **Layout**

In terms of the layout the proposal is respectful of the outline information and follows the layout presented in the previous indicative masterplan that supported parent application. The basic principle of a 'loop' of development also accords with the indicative layout within the adopted masterplan for Collaton St Mary.

In terms of the detail the layout presents a loose knit form of development and varied building lines along streets. These elements help present an informal form of development that suitably responds to the rural context. The form of development is also broken up by a series of public open spaces through the site that perform a variety of functions including water attenuation, offer a public orchard, and formal play space.

All matters considered the layout and detailed arrangement of building and landscaped areas is considered well resolved and is supported.

### **Scale**

The development follows the outline proposals and keeps development within a classic domestic scale. All buildings are two storeys with pitched roofs, with a handful of buildings offering accommodation within the roof, which are described as 2.5 storey buildings within the submission.

Buildings are kept away from the high point of the site in accordance within the outline proposals to limit wider landscape impacts.

All matters considered the scale of buildings is considered acceptable and is supported.

### **Appearance (form and materials)**

The development presents a 'character area' concept, which has evolved from the outline concept, in order to try and respond to the rural context. The aim being to break down the scheme into smaller pockets of development as a reference to how rural hamlets and villages have traditionally tended to expand at a slow pace over time.

The concept is one of 6 character areas, which are briefly covered below.

**Village Green:** Sited at the entrance of the site and encompasses the attenuation pond and community orchard, with the entrance road passing by and a handful of properties overlooking the space. The space acts as a link and transition to and from the existing community and softens the entrance, with an emphasis on landscaping rather than buildings. The main material is rough render in this area with well-spaced properties and strong landscaping.

**Southern Cluster:** This is a gateway area where the road splits, central in the site, where there is a pocket of public open space around an open junction, planted with an oak tree and smaller specimens, and partly framed by devon banks. Dwellings overlook and frame the area. Materials include hanging tiles on the upper floors in this area as a change from render at the entrance.

**Southern Mews Court:** Located south of southern cluster and adjacent to the Totnes Road, the mews presents slightly smaller properties set off a landscaped courtyard. The buildings are brick in this area to present a distinct pocket of development.

**Southern Link:** Sited to the west of the mews and extending northward along the created field boundary the area seeks to present a softer face to the open countryside with well-spaced dwellings and landscaping. Materials change from rough render to tile hanging as you head

north away from the play area.

**Northern Link:** The area north of the central junction seeks to offer a varied street in term dog building lines and builds on the tile-hung character of the buildings to the south and west. The street includes a small planted public open space that offers some informality to the street.

**Northern Farmstead:** Northern corner of the site where buildings are focused around another informal greenspace. The use of stone through all of the principal elevations provides a distinct character to this area.

In terms of a response to the rural context the form of the dwellings, which are largely gabled but with occasional hipped roofs, with some minor dormers to the larger dwellings and gabled features breaking up certain dwellings, is considered to present some interesting variation within adequately contextual dwellings forms. In terms of the materials variety is welcomed where it is used in clusters. The premise of dark materials is also welcomed to soften the development and would help the scheme sit quieter within the landscape. Rough render over smooth render is also a positive choice that will offer a more rural feel to the scheme.

There is some questions around the proposed use of concrete hanging tiles and concrete roof tiles over natural materials, and the proposed stone, which is 'yate grey', over a more contextual red sandstone that predominates or the 'Torbay mix' that also has red tones to it. The use of concrete over natural materials sits at odds with the expectations of Policy PNP1(c) of the Paignton Neighbourhood Plan. it is recommended that these elements are considered in further detail via a materials condition.

In terms of other element of the built form the mixed use of estate railings, Devon banks, hedges, and brick walls to define public and private spaces is considered adequately resolved and contextual.

All matters considered the proposed layout, scale, form and materials, with consideration of the proposed landscaping, is considered to present a form of development that acknowledges and responds to the rural context and positively address local distinctiveness, for what is an edge-of-settlement location, subject to satisfactory resolution of the stone, roof and hanging tile material. For the reasons above the development is deemed to be well designed, as required by the NPPF, and is considered to accord with the Development Plan design-based policies when read as a whole, notably Policies SS2, SS11, DE1, DE4, NC1 and C4 of the Torbay Local Plan, and Policies PNP1, PNP1(a), PNP1(c), PNP19 and PNP24 of the Paignton Neighbourhood Plan.

### **3. Landscaping**

Landscaping is a key component of placemaking and in a rural context is an important influencer of character. The importance of contextual and effective landscaping is highlighted within the NPPF within Chapter 12, Achieving well-designed places, as part of the drive towards delivering visually attractive development that also responds to and is sympathetic to local character (Paragraph 130). The NPPF also makes reference to the important contribution of trees to the character and quality of urban environments (aside benefits of adapting to climate change) and states that decisions should ensure that new streets are tree-lined, that other opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), and that existing trees are retained wherever possible.

At a local level the Development Plan seeks high quality landscaping in Policy DE1 and Policy C4 states that development will not be permitted where it would seriously harm protected trees or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. The policy also states 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.

Policy PNP1(c) of the Paignton Neighbourhood Plan includes relevant references to development proposals, where possible, retaining existing natural features, and furthers that hedgerows should be provided to at least one boundary and also should include tree planting, being encouraged to plant 3 new trees for each dwelling.

The development features various open undeveloped landscaped areas. There is a pond and orchard area towards the front of the site near to the vehicular access. Further into the site there are 3 district pockets of informal public open space that are planted with Oak trees. There is also a LEAP, again close to the Totnes Road Boundary, that has soft landscaping in and around it. Through the streets there are sections of planted Devon Banks that sit as landscaped features and regular tree planting within the public realm and to the rear of plots. Around the edges of the site the two existing tree-lined field boundaries are retained and enhanced with the creations of a green 'dark' corridor which acts as an ecology feature. Planting is enhanced to the other two boundaries of the site. Along the Totnes Road the planting is to be enhanced as part of the creation of a landscaped public foot/cycle way, and the created field boundary to the west also has tree planting and sections of Devon banking.

The landscaping scheme has evolved through the course of the application in order to strengthen the collective value of the overall design and layout and the planting within it. Following the receipt of final revisions that introduced Oaks within the informal public open spaces, to provide more locally reflective species of significant scale in the long-term, the proposed landscaping is considered acceptable, where it offers substantial softening of the built form and positively influences a more rural character to the scheme.

The progression of improvements is considered to present a scheme that is consistent with the National 'build beautiful' agenda outlined within Section 12 of the NPPF, and would be consistent with Paras 126, 130 and 131. The landscaping is also considered acceptable and considered compliant with Policies DE1 and C4 of the Torbay Local Plan and policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

#### **4. Heritage Impacts**

The site does not hold any listed buildings or structures, nor is it within the boundaries of a designated Conservation Area. However to the east off Bladgon Road there is the Grade 2\* Parish Church of St Mary, and Grade 2 Old School House and Old Vicarage buildings, in addition to a further four Grade 2 listed properties set off the Totnes Road (No.s 391-397). Also, to the west approximately 300 metres, is another Grade 2\* listed building, which is the 15th Century Bladgon Manor. The development does sit within the setting of these listed buildings, where there are direct views and/or where there is a kinetic experience of their settings as you pass through Collaton St Mary. Hence impact on their settings needs to be duly considered.

The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 200). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para

202).

In terms of the local Development Plan it is guided that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

In terms of what is possibly the most sensitive relationship, with the church and the organic cluster of surrounding historic buildings, their rural character and setting is currently largely retained, with the surrounding green fields reinforcing the relationship between the church and the rural hinterland and ultimately how it is experienced as a rural village church. The detailed reserved matters are considered well resolved in order to limit the impact up on the setting of these, and other, listed buildings in the area, having adequately built on the low-density, loosely arranged and landscaped-led outline proposals previously presented. This considers the conclusion on design and visual impact and landscaping in Sections 2 and 3 of the Planning Officer Assessment within this report. However there will be an inherent urbanising impact from the development and the outlook from the churchyard will be impacted. As the scheme is considered well-resolved the scale of harm is considered to be less-than-substantial.

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset the NPPF guides that the harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202).

In this instance the public benefits being the provision of up to 73 dwellings, of which 22 will be affordable, in addition to the delivery of construction jobs and the resultant households and their expenditure within the local economy. Also, there is the provision of public play space where there is currently none in the vicinity and enhanced public transport infrastructure. To consider. Overall these public benefits are not insubstantial. Officers are also mindful that the site is identified for housing and the principle of housing is not objected to per-se, which would naturally present some change to the character of the site.

On balance, with a less than substantial level of harm, when considering the Development Plan and the NPPF, and the public benefits, the development is considered suitable for approval in accordance with Policy HE1 of the Torbay Local Plan and Paragraphs 199, 200 and 202 of the NPPF.

In reaching this conclusion Officers have duly considered the general duties as respects listed buildings under the Planning (Listed Buildings and Conservation Areas) Act 1990 c.9 para 66.

## **5. Residential Amenity**

The Torbay Local Plan contains policies to ensure that appropriate residential standards are achieved in residential schemes, including size standards, through Policy DE3, and that development meets the needs of residents and enhances their quality of life, through Policy SS11. The Paignton Neighbourhood Plan, in Policy PNP 1(d) (Residential Development), presents guidance on supporting elements required for residential units and the NPPF (Para 130) 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

In terms of assessing the quality of the future residential environment it is important to consider the size and quality of the internal living spaces, the levels of outlook and natural lighting afforded key habitable rooms, levels of privacy, along with the quality of outdoor spaces and access to waste, cycle and car parking facilities, which are all integral elements for household developments. The aspiration is to secure good level of amenity for future residents.

The development proposes a variety of house types. All are well spaced and provide good natural lighting to key habitable rooms and good outlooks. Internal privacy is duly offered with adequate back-to-back distances between dwellings or outlooks to landscaped borders. There will be some natural overlooking of gardens, but this is commonplace within residential environments and there are no unacceptable, i.e. overly dominant, relationships. In terms of the internal living spaces all houses and flats exceed the national internal living spaces standards that are engrained within the Development Plan (Policy DE3) and support the concept of producing, in the round, a good level of amenity for future occupiers.

In terms of ancillary elements of parking, cycle parking and waste storage the following is considered.

All dwellings have at least 2 off street parking spaces or 2 assigned spaces within courtyards or within parking runs immediately adjacent. The 4 apartments have 1 assigned space and there are 2 unassigned spaces within the mews parking in the area of the apartments. This level of provision accords with the standards expected in the Development Plan. Most dwellings also benefit from a garage as an additional space that would be available. Electric charging is not detailed and details should be sought to accord with Development Plan expectations, for all dwellings.

Waste storage is detailed for dwellings within the terraced arrangements which will guard against unnecessary street clutter. All other dwellings offer sufficient access to garages or gardens for waste storage potential, and it is not considered necessary to detail these out. Units 8-11 are apartments without detail and clarity on waste storage should be sought by a planning condition.

In terms of cycle parking the Development Plan expects dwellings to be afforded with 2 spaces and apartments 1 space. The Design and Access Statement details that cycle parking will be provided in accordance with local parking policy however the layout plans do not offer clarity on that detail. Where dwellings are afforded a garage as a third space the facility is considered adequate to be considered as providing cycle parking possibilities. Elsewhere details should be sought on the location and form of cycle parking to meet the standard above. This can be secured through a planning condition.

In terms of designing out crime Policy PNP1(g) of the Paignton Neighbourhood Plan expects all developments to show how crime and the fear of crime have been taken into account. In terms of consultee comments it is noted that the Police Designing Out Crime Officer has raised comments including certain boundary positions and advice on plot security. It is recommended that a planning condition is attached to secure details on how the development responds to Secured By Design.

All these matters combined present good quality living spaces throughout the development. Subject to conditions as suggested the proposed residential environment is considered acceptable for all future users and would accord with Policies SS11, DE1 and DE3 in the Torbay Local Plan, PNP1(d) of the Paignton Neighbourhood Plan, and advice contained within the NPPF regarding creating good quality living environments.

The site does not directly border residential properties with the nearest dwellings sited cross the Totnes Road. Due to the distances and natural separation afforded by the separation road the development will not impact the amenity of adjacent occupiers. Construction impacts will be duly managed through Condition 13 of the outline consent, which requires a Construction Management Plan to be submitted to the Local Planning Authority and approved prior to the commencement of development.

The development, for the reasons above, is considered to provide an acceptable relationship that protects the adjacent occupiers' amenity, in-line with policy DE3 of the Torbay Local Plan and in accordance with advice on delivering good living environments for all users, as guided within the NPPF.

## **6. Highways, Movement and Parking**

### Vehicular Access

The access into the site was approved at outline stage for the amount of development approved and hence is not considered as part of this reserved matters application. The Highway Authority request for Personal Injury Collision (PIC) data for the latest available five-year period is not considered necessary or reasonable in this context.

### Connectivity

The outline proposal established the need for a pedestrian/cycle route linking the development towards Blagdon Road (school junction) along the highway verge.

*9) Prior to commencement of development, a section 278 Agreement shall be entered into with the Highway Authority to secure pedestrian crossing facilities adjacent to the existing bus stops to the west of the site within the vicinity of the proposed LEAP and adjacent to the proposed vehicular junction, together with works to create a foot/cycle route that connects the eastern edge of the site to the junction/crossing of Blagdon Road. The approved works shall be delivered in accordance with the Agreement.*

The scheme involves a continuous pedestrian route along the edge of the site with the Totnes Road that links to highway works to link down towards the Blagdon Road and school. The route, both within the site and on highway land, is direct, naturally overlooked by existing and proposed properties, and will be softened within the site with landscaping to provide an attractive environment for users. The route also provides adequate connectivity to the proposed play area, communal orchard, and nearby bus stops and crossings. Highway works established at outline stage will also improve connectivity across the Totnes Road for existing residents and future occupiers of the development, where existing crossings to bus stops are absent.

The connectivity, including better access to the inbound bus stop for residents living on the southern (opposite) site of the Totnes Road, is well considered and sits as a positive aspect to the scheme.

### Internal Road Network

The layout accords with the indicative plans from the outline stage with a simple loop solution for the site with minor spurs to provide a mews courtyard and short private shared drives.

The proposed network is considered acceptable and would support the provision of well-connected and overlooked public roads and spaces, presenting an attractive environment.

The Highway Authority has raised several points for clarification. A number of these replicate or have been established at outline stage and hence do not require further consideration. It is

considered reasonable to establish certainty on adequate access for waste and emergency vehicles and further detail has been submitted by the applicant and is being considered. Members will be updated. There are several minor technical matters linked to evolving a settled scheme for adoption, these are largely clarification points for the Highway Authority, or which can be addressed under planning conditions for delivery, such as electric charging and sufficient cycle facilities, which are noted below.

The proposal, subject to the satisfactory resolution of minor design matters raised by the Highway Authority, is considered to present an acceptable road layout.

#### Car and Cycle Parking

All dwellings have at least 2 off street parking spaces or 2 assigned spaces within courtyards or within parking runs immediately adjacent. The 4 apartments have 1 assigned space and there are 2 unassigned spaces within the mews parking in the area of the apartments. This level of provision accords with the standards expected in the Development Plan. Most dwellings also benefit from a garage as an additional space that would be available. Electric charging is not detailed and details should be sought to accord with Development Plan expectations, for all dwellings.

Waste storage is detailed for dwellings within the terraced arrangements which will guard against unnecessary street clutter. All other dwellings offer sufficient access to garages or gardens for waste storage potential, and it is not considered necessary to detail these out. Units 8-11 are apartments without detail and clarity on waste storage should be sought by a planning condition.

In terms of cycle parking the Development Plan expects dwellings to be afforded with 2 spaces and apartments 1 space. The Design and Access Statement details that cycle parking will be provided in accordance with local parking policy however the layout plans do not offer clarity on that detail. Where dwellings are afforded a garage as a third space the facility is considered adequate to be considered as providing cycle parking possibilities. Elsewhere details should be sought on the location and form of cycle parking to meet the standard above. This can be secured through a planning condition.

#### Other layout/movement issues:

As details PIC date is not considered necessary as outline consent and detailed access to it has already been granted. The Highway Authority's request for electric charging can be dealt with via a planning condition and the request for a Construction Method Statement is already captured through a condition attached to the outline consent. Condition 13 requires that 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. Swept path detail for larger vehicles has been submitted and is being considered. Any necessary changes are likely to be de minimis and are unlikely to impact the general layout being considered. The request for a travel plan is suggested as a condition, as is confirmation of cycle parking facilities. There are some minor technical queries in accordance with the highway comments summarised in this report, which are being considered, but again these are unlikely to present demonstrable changes to the layout being considered.

The proposals are, subject to the satisfactory resolution of the details suggested above, considered to present an acceptable layout in terms of layout and movement, in accordance with Policies DE1, TA1, TA2 and TA3 of the Torbay Local Plan, Policy PNP1(h) of the Paignton Neighbourhood Plan, and the NPPF.

## **7. Ecology and Biodiversity**

The ecological context was duly considered when the outline consent was granted, to ensure that protected species and habitats would not be unduly harmed and that biodiversity aspirations could be met, in accordance with guidance contained within the NPPF and the Development Plan, notably policies SS8, SS9, NC1, C4 of the Local Plan and PNP1, PNP1(a) of the Paignton Neighbourhood Plan. Outline consent was granted subject to reserved matters including the following detail;

1. A Lighting Assessment to demonstrate compliance with the 0.5 lux design parameter set out in the Shadow HRA (Condition 5).
2. A Construction Environmental Management Plan (CEMP)(Condition 6).
3. A Landscape and Ecological Management Plan (LEMP)(Condition 7).
4. A monitoring strategy to provide early warning of any change in site conditions that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary (Condition 8).
5. Measures to enhance biodiversity (Condition 12).

The application is supported by the following documents and plans, which respond to the requirements of the conditions attached to the outline consent in terms of details to be submitted:

- Lighting Impact Assessment
- Construction Environmental Management Plan: Biodiversity
- Landscape and Ecological Management Plan
- Ecological Enhancement Plan
- Greater Horseshoe Bat Monitoring Strategy
- Biodiversity Statement
- Landscape Masterplan

The ecology detail has been considered by Devon County Council ecologist.

The latest lighting assessment is considered acceptable and addresses Condition 5 of the outline consent, where it ensures that there is no likely significant effect on commuting bats associated with the South Hams SAC. The latest Greater Horseshoe Bat Monitoring Strategy is also considered to satisfy Condition 8 and provides an ongoing strategy to identify changes in the site that may present harm.

The latest Construction Environmental Management Plan provides acceptable mitigation to protect ecological features through the construction phase and proposes a suite of ecological enhancement measures to positively address biodiversity enhancement aspirations. Measures include the detailed provision of bat and bird boxes, hedgehog passes, bee bricks, insect houses and reptile habitats. These are in support of the tree planting through the scheme, hedgerow and meadow planting, and the dark corridor habitat.

The latest Landscape and Ecological Management Plan covers all areas of communal landscaping within the proposed development, with maintenance formulated to maximise the landscape amenity of the site moving forward. The plan deals with the maintenance of trees, hedges, ornamental shrub planting, grassland and wildflower meadows, the water habitats, and the more formal areas in terms of the play area, and streets and footpaths. The LEMP is considered acceptable.

The outline conditions largely establish compliance with the relevant ecology-based documents submitted and approved pursuant to the reserved matters, however lighting Condition 5 does not and should be subject to a planning condition for compliance.

The development is deemed to accord with policies SS8, SS9 and NC1 of the Torbay Local

Plan and policy PNP1(c) of the Paignton Neighbourhood Plan.

## **8. Flood Risk**

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 Paignton Neighbourhood Plan offers similar plan-wide aspirations in Policy PNP1(i) and area-specific aspirations are offered in Policy PNP24.

Flood risk was considered at outline stage with an accepted outline strategy. The outline consent was subject to a planning condition requiring future reserved matters to demonstrate that the risk of flooding would not be increased, in line with the design parameters outlined within the previously submitted and approved Flood Risk Assessment.

The application is supported by detailed drainage plans and supporting information for a scheme that attenuates surface water run-off on site within an attenuation pond that is part of the 'village green' landscaped area in the southeast corner of the site close to the Totnes Road. This acts as an on-site holding basin for surface/storm water. The proposal then seeks to discharge the attenuated water at a controlled rate equivalent to undeveloped 'greenfield' runoff to the nearby watercourse at a point near to the Junction of Totnes Road with Blagdon Road, via a proposed Public Sewer that run from the site within highway land.

South West Water raise no objection but state that the applicant should demonstrate to the Local Planning Authority that the prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable.

The Council's Drainage Engineer has reviewed the proposed surface water proposal and does not object to the means of disposal, i.e. a controlled discharge to the nearby watercourse. There is also acceptance to the proposed discharge rate to the watercourse, which complies with the requirements of the Torbay Critical Drainage Area.

Although there is no objection to the strategy and design parameters there is various technical detail requested by the Council's engineer to ensure that the detailed scheme is acceptable. The request includes for example identification of the impermeable areas connected to each pipe length, and various pipe data for the drainage network (manhole invert levels, pipe diameters, pipe lengths and pipe gradients). There is also a request for more drawings of the attenuation pond at varying depths, to ensure the proposed volume can be checked against what is modelled, and some dimensional detail requested to check the storage area in the northern corner of the site.

The above detail has been requested and members will be updated on any revised position. If the matter is pending or under consideration officer advice is that resolution can be delegated to officers, with any positive resolution subject to securing a scheme supported by the Council's drainage engineers. The pursuit of the outstanding technical data will not change the layout or physical form of the development, which informs the recommendation that the decision on the reserve matters more broadly can be progressed on 'subject to' basis.

Subject to the receipt of further technical information that removes any uncertainty on the detailed design, and delivers a surface water drainage that would not increase the risk of flooding for the critical 1 in 100 year storm event plus 40% for climate change, the development is considered acceptable on flood risk grounds, and would accord with Policies ER1 and ER2 of the Torbay Local Plan and policy PNP1(i) of the Paignton Neighbourhood Plan.

## **9. Low Carbon Development**

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. ES1 also states that the retrofit of energy efficiency measures to existing buildings will be encouraged and supported, and that opportunities for reducing carbon emissions associated with energy use will be sought through the development management process as part of the wider conversion/ refurbishment of buildings where planning permission is required.

In terms of the Paignton Neighbourhood Plan Policy PNP1(f) states that new development should aim to achieve where appropriate and subject to viability: i) the latest developments in sustainable construction and water management technologies that mitigate and adapt to climate change; ii) the use of reclaimed materials and natural finishes; iii) include soft landscaped areas for natural drainage of rain water, and compensate fully for any existing soft area lost to development; iv) on site renewable energy generation to achieve 20% of subsequent in-use requirement wherever possible. Solar arrays will be encouraged where they do not adversely affect residential amenity, a vista of landscape value, or designated conservation area; v) connecting cycleways and footpaths where development involves new road infrastructure.

The NPPF states that the planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

Low carbon and energy aspirations were considered at outline stage and the outline consent was subject to a planning condition (Condition 15) for any reserved matters application relating to the proposal's layout, scale and appearance, to include details of energy efficiency measures. The application is supported by an energy and sustainability statement that seeks to address this condition and the ambitions of the Development Plan and the NPPF.

The Energy and Sustainability Statement details a number of measures that the development and dwellings shall incorporate and this states that the whole of the development is designed to meet expected future building regulations, which resultantly is assessed to deliver at least a 31% reduction in CO2 emissions compared with current regulatory standards, thereby exceeding the requirements as set out in the Torbay Local Plan 2012-2030 and the Paignton Neighbourhood Plan Policy PNP1 (f). The Statement demonstrates that the development will achieve these carbon reductions through higher fabric standards and low carbon and renewable energy systems being installed to offset emissions and reduce fuel bills for residents. The Statement additionally details the proposed approach to addressing overheating risk, sustainable and responsible materials usage and water consumption of the dwellings. The development is considered to respond positively policy aspirations and Condition 15 of the outline consent.

To secure certainty on the schemes low carbon credentials ambiguity within the Statement should be addressed by a planning condition/s. Notably the document states some units will be installed with a Waste Water Heat Recovery (WWHR) system, that some units will be installed with a Flue Gas Heat Recovery (FGHR) system, and that where feasible, dwellings will be fitted with high-efficiency combination boilers. The Statement furthers that to respond to Policy PNP1 (f) of the Paignton Neighbourhood Plan an estimated 120KW of solar power would need to be delivered through the solar panels to deliver no less than 20% of the energy

demand via renewable energy systems. The Statement offers that PV panels will be distributed to take advantage of favourable pitch and orientation where feasible, and grouped into cost-effective system sizes to ensure that the capital outlay for the systems is biased towards the energy-producing element. The details plans do not however detail out this provision and hence would also require capturing within any energy-based planning condition.

The proposal is considered, with an appropriate planning condition, to deliver on the low carbon aspirations of the Development Plan and the NPPF.

## **10. Affordable Housing**

Affordable housing provision has been largely established outline stage with the amount and general parameters for the provision set in a Legal Agreement that accompanies the outline consent. This established the provision of 30% affordable units, which is the policy compliant level for development of this scale on greenfield sites, occupation type, specifications, and delivery. The Legal Agreement set the type of affordable units in accordance with policy guidance, with the need to deliver a split of a third-third-third between social rent, affordable rent, and part ownership, with 5% of the provision being adapted dwellings. The legal agreement also established the broad requirement for a proportionate mix of dwelling types, and for these to be distributed through the development.

In addition to the requirements of the Legal Agreement a planning condition was placed on the outline consent (Condition 11) that any application for reserved matters relating to the proposal's layout and scale, a scheme of affordable housing shall be submitted for the written approval of the Local Planning Authority, which shall include information about the siting, size, and tenure type of the affordable units.

The requirement of Condition 11 to submit details with the reserved matters has been met and the submission is accompanied by an Affordable Housing Plan. The plan details the provision of 22 units, which accords with the requirement to deliver 30% of the units as affordable units.

In terms of tenure split the plan details 7 units of affordable rent, 7 units of social rent, and 8 units of shared ownership. This is considered to accord with the requirement to have an even split of tenure types through the scheme.

The location of the units are distributed though the development within 4 'pockets'. 3 shared ownership dwellings and 4 affordable rented units (flats) are proposed within the southern mews character area near to the Totnes Road. 2 social rented units and 3 shared ownership units are proposed within the northern link character area on the northern part of the circular road, and a similar level and type is proposed within the southern link character area, on the southern part of the circular link road. The remaining 5 units are within the northeast corner of the site and provide 3 affordable rented units and 2 shared ownership units.

The council's Housing Strategy and Enabling Officer has reviewed the proposed provision and concludes that it is a good Affordable Housing scheme, noting that the affordable housing is spread across 4 clusters on the site and that there is a good range of house types, including up to 2 x 4 bedrooms. There is some uncertainty on the requirement to provide 5% of the affordable units (i.e. 1 unit) as an Adapted Dwelling, which is within the Legal Agreement. Clarity on which unit(s) will be delivered to adapted standards in accordance with the Legal Agreement has been sought from the agent. Subject to clarification the Council's Housing Delivery Officer supports the proposal in terms of an affordable housing offer.

## **11. Housing Supply**

The Council cannot currently demonstrate 3 or 5 year housing land supply, as sought by

Government. The five-year supply position represents a significant shortfall and must be treated as an important material consideration weighing in favour of the proposal.

Considering the housing supply position, it is advised that in determining the application, the presumption in favour of sustainable development at Paragraph 11 of the NPPF must be applied. Paragraph 11 of the NPPF outlines that decisions should apply a presumption in favour of sustainable development, which means approving development proposals that accord with an up-to-date development plan without delay.

It is concluded within this report that the development accords with the Development Plan when considered as a whole and hence there is support for the grant of permission, in-line with the guidance within the NPPF (Para 11). Were Members of a different judgment and were to consider the proposal to conflict with the Development Plan it should be noted that the absence of a 3- or 5-year housing supply principally sets a higher benchmark to resist development. In such a circumstance development should only be refused where any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits.

## **Sustainability**

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

### **The Economic Role**

Housing development is recognised as an important driver of economic growth and there would be economic benefits to the construction industry from the proposed development. The development would see the use of an empty site that has an outline consent for housing. Once the development is occupied there would be an increase in the level of disposable income from the occupants some which would be likely to be spent in the local area and an increase in the demand for local goods and services.

There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

### **The Social Role**

The principle social benefit of the proposed development would be the provision of additional housing, including 22 Affordable Housing units. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance, with the benefit heightened by the inclusion of 30% of the units being Affordable units. 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 development is supported by drainage, landscaping and ecological measures to mitigate impact, as detailed in this report. 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**

#### **CIL**

Not applicable to this development.

#### **S106**

Not Applicable to these Reserved Matters. The outline consent is subject to a S106 legal agreement that secures the following if a scheme is delivered;

- 30% Affordable Housing.
- Education Contributions in accordance with the adopted SPD.
- Sustainable Transport Contributions in accordance with the adopted SPD.
- Highway Works Contribution to the sum of £119,500.00 towards improvement works to the A385.
- TRO Contribution of £8,000.00.
- Flood Works contribution of £66,795.00.
- Lifelong Learning Contribution in accordance with the adopted SPD.
- Waste and recycling Contribution in accordance with the adopted SPD
- Delivery of Public Open Space and SUDS facilities.

### **EIA/HRA**

EIA: Considered at outline stage, which concluded that due to the scale, nature and location the development it would not have significant effects on the environment and therefore was not considered to be EIA development. Considering these reserved matters aside the outline proposals it is not apparent that the project would likely have significant effects on the environment and hence no further formal screening is considered necessary.

HRA: Considered at outline stage, which concluded that due to the scale, nature and location the development was not considered to have a likely significant effect on European Sites. Reserved matters applications will not normally need to re-consider HRA and as the proposed development principally accords with the form and layout of development previously presented it is not considered necessary to carry out a further HRA.

### **Planning Balance**

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a significantly positive impact overall and help with the supply of much needed housing. The provision of 22 affordable homes is also a significant material benefit.

The provision of a public play area is also a significant public benefit, certainly in light of the current absence of child's play facilities within the area. The nearest formal play area being at Claylands near the junction of Borough Road and Brixham Road.

The provision of enhanced public transport facilities is also a material benefit with the proposal including the provision of a pull-in bus stop on a strategic road, in place of the existing in-carriageway bus stop. It is also proposed to secure a central crossing refuge, which will also improve the access to the eastbound bus stop where there is currently no crossing facilities to aid crossing a strategic road.

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

The site already has outline planning permission (with an approved vehicular access design) and is identified for housing within the Development Plan, and the proposal is consistent with the approved outline application for the site. The proposal is considered acceptable in principle.

The scheme is adequately resolved and would not result in unacceptable harm to the character of the area, or local amenity; would provide an adequate standard of living accommodation and is acceptable in terms of access, ecology and flood risk matters (ecology and flood risk subject to confirmation from the relevant consultees on minor detail matters).

There are also demonstrable public benefits that weigh in favour of the scheme, notably housing provision, including 22 affordable units, the first formal equipped child's play area in Collaton St Mary, and public transport facilities would be improved.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Torbay Local Plan, the Paignton Neighbourhood Plan, the NPPF, and all other material considerations.

The NPPF guides that decisions should apply a presumption in favour of sustainable development and for decision making that means approving development proposals that accord with an up-to-date development plan without delay, or where for housing proposals within situations where the local planning authority cannot demonstrate a five year supply of deliverable housing sites, granting permission unless the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed. Or where any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF when taken as a whole. There are no impacts on protected areas or assets of particular importance to provide a clear reasoning for refusal.

### **Officer Recommendation**

Approval: Subject to;

The resolution of identified highway matters to be delegated to the Divisional Director of Planning, Housing and Climate Emergency.

The resolution of detailed design elements of the surface water drainage system, to the satisfaction of the Councils Drainage Department (Lead Local Flood Authority), to be delegated to the Divisional Director of Planning, Housing and Climate Emergency.

The receipt of satisfactory detail clarifying the conclusions made by within the submitted ecology report regarding cirl bunting and dormice, to the satisfaction of the Divisional Director of Planning, Housing and Climate Emergency, in consultation with Devon County Council Ecologist.

The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.

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

## **Conditions**

### **Low Carbon 1**

Notwithstanding wording within the submitted and approved Energy and Sustainability Statement all dwellings shall have the following installed prior to their first occupation, unless an alternative schedule of provision is submitted and approved in writing by the Local Planning Authority that demonstrates that their installation within identified dwelling/s is not feasible.

1. A Waste Water Heat Recovery (WWHR) system.
2. A Flue Gas Heat Recovery (FGHR) system.
3. A High-efficiency combination boiler.

Reason: In interests of tackling climate change and securing low carbon development, in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030, Policy PNP1(f) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

### **Low Carbon 2 - PVs**

Prior to the commencement of development above Damp Proof Course level details of the location and arrangement of on-site renewable energy generation, demonstrated to achieve no less than 20% of subsequent in-use requirement, in accordance with the submitted and approved Energy and Sustainability Statement, shall be submitted to and approved in writing by the Local Planning Authority.

The proposals shall as far as practicable demonstrate the following:

- (a) Be sited so as to minimise its effect on the external appearance of any building;
- (b) Be sited so as to minimise its effect on the amenity of the area.
- (c) Be detailed so as not to protrude more than 0.2 metres beyond the plane of the wall or the roof slope when measured from the perpendicular with the external surface of the wall or roof slope, and would be no higher than the highest part of the roof

The solar equipment approved within each dwelling plot shall be implemented in full and operational prior to the first occupation of the building and maintained thereafter.

Reason: In interests of tackling climate change and securing low carbon development, in accordance with Policies SS14 and ES1 of the Torbay Local Plan 2012-2030, Policy PNP1(f) of the Paignton Neighbourhood Plan, and guidance contained within the NPPF.

### **Waste Storage apartments**

Prior to the first occupation of Units 8-11 details of waste storage facilities shall be submitted to and approved in writing by the Local Planning Authority.

The waste storage facilities approved for each unit shall be implemented in full and operational prior to the first occupation of the unit and maintained thereafter.

Reasons: In order to protect amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1(d) of the Paignton Neighbourhood Plan and advice contained within the NPPF.

### **Cycle Parking**

Prior to the first occupation of each plot identified below plans identifying the form and location of secure cycle parking (2 per dwelling and 1 per apartment) shall be submitted to and approved in writing by the Local Planning Authority.

Plots 3, 4, 5-16, 22, 29-32, 34, 35, 40-44, 46-50, 54-56, 63-67,

The approved facilities shall be provided and made available for use prior to the occupation of the plot to which it relates and retained at all times thereafter.

Reason: To secure an acceptable form of development and to ensure adequate facilities for visitors, in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030, Policy PNP1(d) of the Paignton Neighbourhood Plan and the NPPF.

### **Parking Provision**

Prior to the first occupation of each dwelling (or apartment) the parking facilities identified for that dwelling (or apartment) shall be completed and made available for such purposes. The parking facilities for each dwelling (or apartment) shall thereafter be retained for such purposes.

Reason: To secure an acceptable form of development and provide adequate parking, in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030.

### **Electric Parking Provision**

Prior to the first occupation of each dwelling details of the form and location of electric car charging facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved facility shall be completed and made operational and available for use prior to the first occupation of each dwelling and maintained operational and available at all times thereafter.

Reason: To secure an acceptable form of development and provide adequate parking, in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030.

### **Open Space**

The equipped play area and areas of public open space delivered as part of the scheme shall be maintained as approved and be available for use by the public at all times in perpetuity, except for short term essential maintenance purposes.

Reason: To secure an acceptable form of development and maintain areas with proposed public value, in accordance with Policies SSS7, SS11, DE1, DE3 and SC5 of the Torbay Local Plan 2012-2030.

### **Lighting**

Development shall be carried out in accordance with the actions set out in the submitted and approved Biodiversity Statement and Lighting Impact Assessment. External lighting within the site shall at all times strictly accord with the details approved with no additional or amended lighting within the site.

Reason: To secure an acceptable form of development and to protect ecology and protected species, in accordance with Policies ss8, SS11, DE1, DE3, C1 and NC1 of the Torbay Local Plan 2012-2030.

### **Ecological Compliance**

Prior to the first occupation of the development, or in accordance with a phasing strategy if agreed under condition 12 of the outline consent, an ecological compliance statement for the development, or phase, shall be submitted to and approved in writing by the Local Planning Authority by the appointment Ecological Clerk of Works (as required by the approved CEMP). The ecological compliance statement

shall confirm that all necessary works within that phase identified within the approved CEMP Ecological Enhancement Plan have been implemented.

Reason: To secure an acceptable form of development and to protect ecology and protected species, in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030.

### **Materials Schedule**

Notwithstanding materials referenced within approved plans prior to their installation the following shall be submitted to and approved in writing by the Local Planning Authority:

- I. A revised stone sample that responds adequately to local character and distinctiveness
- II. A revised roof and tile hanging materials that respond adequately to local character and distinctiveness and demonstrates accordance with Neighbourhood Plan aspirations for natural materials and demonstrates accordance with climate change aspirations.

The development shall proceed in full accordance with the details approved pursuant to this condition and all other materials shall accord with the materials schedule detailed and approved.

Each building shall be externally finished in full accordance with the approved materials schedule for that building.

Reason: To secure an appropriate form of development in accordance with Policy DE1 of the Torbay Local Plan 2012-2030, Policies PNP1 and PNP1(c) of the Paignton Neighbourhood Plan and the NPPF.

### **Detailed Design**

Prior to their installation within the development details of the following shall be submitted to and approved in writing by the Local Planning Authority;

Detailed drawings of all proposed windows, doors, sills, balcony enclosures, fascia's, eaves, rainwater goods and meter boxes, and section / reveal detail to a scale of between 1:1 and 1:10 and means of opening where applicable.

The development shall proceed in full accordance with the approved detail.

Reasons: In order to protect visual amenity in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF.

### **Permitted Development Rights**

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) 2015, Article 3, Schedule 2, Part 1, Classes A to F, and Part 2, or any Order amending or revoking said Order;

- i. No enlargements, improvements or other alterations shall take place to dwellings within the application site, and no outbuildings shall be erected within the garden areas of these dwelling houses, with the exception of one ancillary structure each up to 10 cubic metres in volume,
- ii. No additional means of hard surfacing shall be provided forward of the principal building line of each dwelling hereby approved, and
- iii. No alternative means of enclosures shall be erected within the site.

The development shall accord with the above unless permission under the provisions of the Town and Country Planning Act 1990 has first been sought and obtained in writing from the Local Planning Authority.

Reason: In interests of visual character, local amenity and biodiversity, in accordance with Policies DE1, DE3, SS8, SS9 and SS11 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and the NPPF, having regard to the particular design and layout of the dwellings.

### **Levels, Underbuilds and Retaining Walls**

Prior to the commencement of development the following details shall be submitted to and approved in writing by the Local Planning Authority:

Details of all Finished Floor Levels for dwellings and garages  
Details of all retaining walls or underbuilds, including heights and form  
Details of all grading/management of level changes within gardens, including levels.

The development shall proceed in full accordance with the approved detail.

Reasons: In order to protect visual character and local amenity in accordance with Policies SS11, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF. These details are required pre-commencement in order to secure the timely agreement of details to protect visual character and future occupier amenity.

### **Highway Standards**

Construction of the internal roads and footpaths within the development shall be in accordance with the Torbay Highways Design Guide for new developments in operation at the time of construction. Roads serving each phase of development shall be completed to adoptable standards prior to the first use of each phase and made available for public use and always maintained as such thereafter.

Reason: To secure an acceptable residential environment and to ensure highway safety is not impaired, in accordance with Policies SS11, TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

### **Adoptable Streets**

No development relating to the creation of the roads shall be commenced until full engineering, drainage, street lighting and constructional details of the streets proposed for adoption 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, unless otherwise agreed in writing with the local planning authority.

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

Informative: The applicant is advised to obtain a technical approval for all estate street details from the local highway authority prior to the submission of such approved details to the local planning authority.

### **Management and Maintenance of Estate Roads**

No works shall be carried out for the formation or construction of any road unless the local planning authority has approved a Road Maintenance Plan for that road including the arrangements for either adoption by the highway authority or the implementation of a Private Road Management Scheme to secure the effective management and maintenance of the road and refuse collection throughout the lifetime of the development.

Where it is proposed that the estate roads shall be privately maintained no works shall be carried out above ground level until a Private Road Management Scheme has been submitted to and approved in writing by the local planning authority and which shall provide for;

- (a) Setting up a company or other entity to be responsible for the on-going management and maintenance of the road and refuse collection (the "Management Body").
- (b) How the company and the future management and maintenance of the road and refuse collection is to be financed including initial capital investment with subsequent funding.
- (c) The rights for and obligations on the Management Company to manage and maintain the road and collect refuse
- (d) Arrangements for the management and collection of refuse and waste from the dwellings.
- (e) A road management and maintenance and refuse collection schedule.
- (f) How refuse and waste will be managed on site including the location of individual and communal refuse and waste collection facilities and the locations where refuse and waste is to be transferred off-site.

- (g) Confirmation from the relevant waste collection company that they have agreed to collect the refuse and waste from the development in accordance with the approved details.

The development shall be carried out in accordance with the Road Maintenance Plan and the Private Road Access Scheme which shall thereafter be fully complied with and implemented.

No dwelling shall be occupied unless it connects directly to a road (including a footway and carriageway) which is:

- (a) Adopted by the highway authority as a highway maintainable at the public expense or
- (b) Subject to an agreement with the highway authority under section 38 of the Highways Act 1980 for the adoption of the road; or
- (c) Subject to a Private Road Management Scheme where the Management Body has been established and is responsible for the management and maintenance of the road and the collection of waste and refuse from the date of occupation of the dwelling.

Any roads (including carriageways and footways) which do not form part of the highway maintainable at the public expense shall be permanently maintained to an adoptable standard and retained and made available for public use or the lifetime of the development

Reason: In the interest of highway safety; to ensure a satisfactory appearance to the highways infrastructure serving the approved development; and to safeguard the visual amenities of the locality and users of the highway in accordance with Policies DE1, SS11, TA1 and TA2 of the Torbay Local Plan 2012-2030.

### **Secured by Design**

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

The approved measures for each dwelling/plot shall be implemented in full prior to the first occupation of each dwelling/plot.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy PNP1(g) of the Paignton Neighbourhood Plan.

### **Landscaping**

Any trees, hedges or plants, within both public and private areas, which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of amenity and design in accordance with Policies DE1, C4 and NC1 of the Torbay Local Plan 2012-2030, a Policy PNP1(c) of the Paignton Neighbourhood Plan and advice contained within the NPPF.

### **School Link**

Notwithstanding details on the plans hereby approved prior to layout out of the pedestrian "school" link to the northeast boundary the precise location and detailed finish shall be submitted to and approved in writing by the Local Planning Authority.

The approved link shall be implemented in full within a timeline agreed pursuant to this condition and maintained for such purposes thereafter.

Reason: In the interests of amenity and connectivity, in accordance with Policies SS11 and DE1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

### **Informative(s)**

01. 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.

02. Conditions relevant to these reserved matters are present on the outline consent P/2019/0604.

## **Relevant Policies**

### **Development Plan Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS3 - Presumption in favour of sustainable dev  
SS8 - Natural Environment  
SS9 - Green Infrastructure  
SS11 – Sustainable Communities  
SS12 – Housing  
SS13 – Five year housing land supply  
SS14 - Low carbon development and climate change  
H1 – Applications for new homes  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 – Parking requirements  
C4 - Trees, hedgerows and natural landscape  
DE1 - Design  
DE3 - Development Amenity  
DE4 - Building heights  
ER1 - Flood Risk  
ER2 - Water Management  
ES1 - Energy  
W1 - Waste management facilities  
W2 – Waste audit for major development and significant waste generating developments  
NC1 - Biodiversity and geodiversity

PNP1 – Area wide  
PNP1(a) - Rural Character Area  
PNP1(c) – Design Principles  
PNP1(d) – Residential Development  
PNP1 (f) – Towards a sustainable low carbon energy efficient economy  
PNP1(g) – Designing out crime  
PNP1(h) – Sustainable transport  
PNP1(i) - Surface Water  
PNP19 – Safeguarding open countryside  
PNP24 – Collaton St.Mary Village

## TORBAY COUNCIL

Application Site Address	Former Magistrates Court, Union Street, Torquay TQ1 4BP
Proposal	Conversion of the former Magistrates Court to form 14 residential apartments, including partial demolition, the provision of an additional floor, and external changes including the provision of balconies, terraces, and associated car parking, bike parking and bin storage.
Application Number	P/2022/0969
Applicant	Mr E.K Richardson
Agent	Kay Elliott Architects
Date Application Valid	16.09.2022
Decision Due Date	16.12.2022
Extension of Time	N/A
Recommendation	Approval: Subject to; <ul style="list-style-type: none"> <li>1. The conditions as outlined, with final drafting delegated to the Divisional Director of Planning, Housing and Climate Emergency.</li> <li>2. The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</li> </ul>
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

Old Magistrates Court Location Plan 1-1250 - Location Plan



## **Site Details**

The former Magistrates Court, located on the corner of Union Street with Trematon Avenue, west of Grade 2\* St Mary Magdalene's Church and south of the Town Hall Car Park. The building has been empty and unused for approximately 5 years.

The principal element of the existing building fronts Union Street and is a stone finished two-storey flat-roofed building with an element of under-build evident along Trematon Avenue, responding to the drop in levels. There is a secondary element in the form of a linked annex, which is brick finished elevated single-storey element set over parking spaces. The corridor link is elevated with the existing vehicular access passing underneath the linking corridor to a courtyard area and under-croft parking under the annex. The pedestrian entrance is via Union Street where there is stepped and ramped access to the central door feature.

There is very limited landscaping within the plot as the building dominates, however there are significant trees adjacent within the grounds of the church to the east.

In terms of context the building sits within the Upton Conservation Area and dates from between 1870 and 1904, initially being a school building. In addition to the church the site also forms part of the immediate setting to the Grade 2 Listed Castle Chambers to the east across Trematon Avenue. In addition to heritage designations it is also pertinent to note that the site sits at the upper end of the designated Town Centre and is within a Community Investment Area, as identified within the Torbay Local Plan.

## **Description of Development**

The proposal is for the Change of Use of the building, with partial demolition and a roof-level extension, to provide 14 residential apartments.

The accommodation created being 13 x 2-bed apartments and 1 x 3-bed apartment, with one of the apartments being within the rear elevated annex.

Within the main building the partial lower ground floor will chiefly hold plant and bin storage, with a single-aspect apartment facing east towards the church. On the ground and first floors, within the existing building, four apartments are provided on each floor with the arrangement loosely split into quarters providing double aspects to each unit. Each of the first-floor units are to be provided with a balcony, two facing Union Street and one to the northern end of each of the side elevations. Above four apartments are to be provided within an additional roof storey, which takes the form of a double gabled structure that frames an internal flat-roofed section. The roof slopes face Trematon Avenue and the church, inset with dormers. The apartments are again double aspect and the two facing Union Street feature inset terraces between the gables, whilst the two facing the Town Hall Car Park feature rear-facing balconies. The sole 3-bed apartment sits within the annex which is accessed via enclosed stairs near to the main entrance. The unit features outdoor space in the form of a balcony created through recessing the existing building line adjacent to the enclosed stairs.

In terms of partial demolition the main element of this is the removal of the slightly protruding section of the building facing Trematon Avenue, recessing the building back to present a straight building line.

In terms of supporting elements the vehicular courtyard between the linked buildings and partially under the 'annex' element is laid out to provide 14 car parking spaces. The design and Access Statement cites cycle parking for 28 cycles is provided adjacent to the individual parking bays. Recent detail shows these split, with the majority within the secure undercroft courtyard and a small number within the walled garden.

The materials palette within the scheme is natural stone in the main building to three sides, reusing the existing, with the rear elevation facing the annex reformed and extended in a mix of white render and grey standing seam. The added roof storey is formed in grey metal standing seam, and the existing window stock is to be replaced with grey aluminium windows and doors. The annex building retains the existing brick and again grey aluminium windows replace the existing Upvc stock.

### **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 (TNP)

#### **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:
- Heritage setting, within a Conservation Area (Upton) and is part of the immediate setting of the Grade 2\* Listed St Mary Magdalene's Church and Grade 2 Castle Chambers.

### **Relevant Planning History**

P/2021/0266: Change of use from former Magistrates Court to 10 residential apartments & associated facilities, including amendments to windows, doors and external staircases, and the addition of rooflights. Application withdrawn.

### **Summary of Representations**

**Support:** x1 – positive impact on local area, it provides facilities, it provides houses, it removes an eyesore.

**Objections:** No objections.

### **Summary of Consultation Responses**

#### **Torquay Neighbourhood Forum**

No comments.

#### **Torbay Council Community Safety Officer**

No objections.

#### **Torbay Council Heritage Advice**

The balconies to the front have been retained which I still don't think are appropriate. They will attract lots of residential paraphernalia at high level which will not look attractive and is not common in this location.

I am also concerned with the loss of the historic pier and walling towards the corner/junction which I feel could be integrated into the scheme. I am also concerned with the treatment and detailing of the proposed boundary wall which I feel could respond better to the traditional treatment seen elsewhere within the conservation area.

#### **Highway Authority (SWISCo)**

The Applicant is required to address the following items before a recommendation can be issued by the Local Highway Authority in respect to the acceptability of the proposals:

- Further consideration is required as to the design of cycle parking and justification regarding the car parking provision;
- Further consideration is also required as to delivery and servicing of the proposed apartment in the Annex;
- A revised layout is required for the proposed gated vehicular access as, so it aligns with the required design standards; and
- Further evidence is required as to the feasibility of the proposed car park layout.

#### **Green Infrastructure Manager (SWISCo)**

The site is within the Upton Conservation Area with the trees over 7.5cm in diameter at 1.5m above ground level afforded statutory protection under the Conservation Area regulations.

Owing to the proximity of the tree canopies some minor pruning works will have to be undertaken should the proposal be granted consent, and this is highlighted in the supporting information. The trees will tolerate the required pruning to ensure that there is adequate spatial relationship between the building and the canopies.

Consideration will need to be given to the fenestration and room use within in proposed development. The eastern aspect is likely to be significantly shaded and the perceived dominance of the trees a concern to the occupiers leading to calls for the trees to be pruned or removed owing to their position to the building.

The internal design will need to be delivered and supported by further arb assessment showing the natural light levels reaching the rooms are commensurate with the use of the rooms.

### **Drainage Engineer (Torbay Development Agency)**

Providing the surface water drainage is constructed in accordance with the hydraulic design and drawing number DR-001 revision B, I have no objections on drainage grounds to planning permission being granted.

### **Waste and Recycling Officer (SWISCo)**

No objection.

It will be important to make sure that the sunken courtyard has a solid non-slip surface rather than gravel or chippings and that the area including any gateway is wide enough to bring the bins through and that it is well lit.

To complete collections we would pull into the entrance to the car park to avoid blocking the highway, so please can it be ensured that there is adequate space for our vehicles to pull into safely. Combination locks are an ideal way for access to be granted to our teams to collect.

We would require the details of a contact in case of problems with collections and would ask property management to work with us to make sure that the waste is correctly presented for collection.

I note that 1100L bins are shown on the plans, but we do not provide 1100L bins for recycling any more. Instead we would provide smaller bins (usually 240 litre to begin, but can be adjusted to fit demand) for different materials (paper, cardboard, glass, plastic & cans, food). If 1100L bins are provided by SWISCo for residual waste a rental charge will be applied annually, currently at £123.59 + VAT per 1100L bin.

Request waste management contributions for this development as per the table 4.2 of the Council's Planning Obligations SPD.

### **Building Control Officer**

This application will require Building Regulation consent. Below are some general observations that will apply which I'm sure the agent is already aware of, this list is not intended in any way to be exhaustive.

- Changing the use to flats will require all existing thermal elements such as the roof, walls, floors and windows to be upgraded to comply with current thermal insulation requirements.
- New separating walls and floors between the units must be upgraded to current fire resistance and sound insulation requirements. A pre-completion sound test will need to be undertaken and arranged by the builders or applicant. It is highly recommended advice is sought from an acoustic engineer if in any doubt.
- Ventilation to the units will need to satisfy the current updated Building Regulation requirements.
- The size, location and construction of the communal waste store will need to be considered in accordance the local waste collection agency and the requirements of the Building Regulations.

- An Automatic opening vent for fire service use will be required at the head of the common stair to provide smoke ventilation to the staircase.
- The internal layout of the common areas serving the flats will require careful consideration regarding maintaining fire compartmentation, travel distances, access and facilities for firefighting, smoke venting etc.

### **Police Designing Out Crime Officer**

The proposed development site sits within the policing beat area of Torre which Police have high demand in respect of crime and anti-social behaviour compared to other areas of Torquay as a result it would request the following conditions are in place:

It is respectfully requested a condition is in place so that any low walls surrounding the development are designed so not to have a flat top or in a way which will prevent the wall becoming an informal seating area for people or large groups to congregate. Reason – To prevent the fear of crime and anti-social behaviour.

It would be respectfully requested that a condition is in place to create a secured lobby at the front entrance of the building with an access control/visitor door entry system. Reason – In the interest of the security of the building and prevent crime and anti-social behaviour.

It is requested a condition is in place so that the gate to the sunken private garden is lockable from both sides by means of a key as an example. Reason - to prevent unauthorised access and to prevent crime.

### **South West Water**

The applicant should demonstrate to the Local Planning Authority that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable.

The applicant's current information, to discharge to the public combined sewerage network, is not acceptable in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy has been discounted by the applicant.

### **Planning Officer Assessment**

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

1. Principle of Development
2. Design and Visual Impact (Inc Heritage)
3. Residential Amenity
4. Highways and Movement
5. Ecology
6. Flood Risk and Drainage
7. Low Carbon / Climate Change

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

The building is a disused law court in the built-up area, in a Community Investment Area, Conservation Area (Upton), and within the defined Town Centre (Torquay).

The principle of a change of use to residential apartments is considered acceptable, for the reasons below.

Policies SS12 and H1 of the Torbay Local Plan supports proposals for new homes in the built-up area, subject to wider policy consistency, and promotes the re-use of brownfield land and the need to provide homes and meet housing needs. In addition Policy TC1 of the Local Plan states that housing provision, within town centres not covered by primary or secondary shopping frontages, together with the reuse of underutilised floor space above existing commercial premises as a source of housing supply, will be supported. These policies support the provision of housing where it is sustainable development.

In terms of the Torquay Neighbourhood Plan the central policy guidance re principle is contained within Policy TT2 (Change of Use in Conservation Areas and Listed Buildings), which offers that within designated Conservation Areas the change of use, where proposals require consent, will be supported in principle (subject to other policies in this Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

For the reasons above the principle of the change of use is comfortably aligned with the aspirations of the Development Plan.

In terms of national guidance the NPPF seeks to support the vitality of town centres, confirming that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It recognises, in Paragraph 86, that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

It is also relevant to note that the Council is currently falling short of a 3 and 5-year housing land supply and that the proposal would make a moderate contribution to this shortfall being addressed as a windfall brownfield development. The application of the 'tilted balance' in favour of sustainable development is a material policy consideration as identified by the NPPF in this circumstance. However, as cited above, the principle of residential is supported for the reasons stated. The 'tilted balance' guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. In regard to applying the 'tilted balance' it is relevant to note that there are heritage considerations due to the Conservation Area setting and being within the setting of a Grade 2\* Listed Church and other listed buildings. As concluded within this report there are no heritage reasons that provide clear reason for refusing the application, so the 'tilted balance' is considered applicable. This guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Notwithstanding the NPPF and the 'tilted balance' guidance, this does not displace the primacy of the Development Plan.

As stated for the reasons above the principle of the change of use is aligned with the Development Plan and is hence supported, having regard for the aims and objectives of Policies SS12, H1, TC1 and TT2 of the Development Plan.

## **2. Design and Visual Impact (Including Heritage Impacts)**

The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Para 126). It also states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (Para 134).

In terms of the Development Plan Policy TH8 'Established architecture' is the key policy tool within the Torquay Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy TT2 (Change of Use in Conservation Areas and Listed Buildings), offers that the change of use will be supported in principle to ensure a sound future for such heritage assets, and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

In terms of further advice within the Development Plan Policy DE1 of the Torbay Local Plan outlines the importance of good design and is also a key policy tool in design terms.

For development affecting heritage assets the thrust of policy guidance within the Development Plan and NPPF is for development to sustain and enhance character, to take opportunities to remove deleterious features, and to give great weight the conservation of assets. This is relevant as the site sits in the Upton Conservation Area and contributes to the immediate setting of the Grade 2\* Listed church and Castle Chambers, and the wider setting of Listed civic buildings around Castle Circus.

This former school and law building is not identified as a building of merit in the Upton Conservation Area Appraisal, however it is considered a positive contributor to the townscape, where its stone finish and utilitarian form sits comfortably with the buildings of merit in the area. The buildings merit is however weakened by a modern window stock, rooftop clutter, and the beginnings of general disrepair.

As a response the building and context the conversion scheme is considered, in the round, as a positive reimagining of this civic building into a residential use.

The additional roof storey takes reference from the adjacent Castle Chambers in terms of the gabled roof form and the proportions of the gables presented, and the reuse of stone from other parts of the building within the gables facing Union Street reinforces the stature of the principal elevation. The use of a modern material (a grey metal seamed finish) within the roof is considered acceptable in terms of honestly characterising the additional floor as a modern addition. The colour reflects the predominant slate finish, and the dormers help break up the roof form and add some interest. Below roof level the demolition of the protruding 2.5/1.5-storey element facing

Trematon Avenue provides some breathing space to the street and is welcomed as a positive regression from the edge of the public realm. The replaced and reformed window and door arrangement presents pleasant elevations to the public realm, with grey aluminium frames replacing white uPVC within regularly formed openings. The success of the balconies on the principal elevation has been raised as a question with the agent and any response will be reported to members. However, as matters stand the scheme, in the round, is considered acceptable as a positive reinvention of the building for a future residential use. In terms of boundary works the creation of a stone wall along Trematon Avenue is positive and provides a defensible space in a suitable form. There is some question on the impact of the boundary works on the historic pillar, which should be retained and worked successfully into the boundary amendments. At present it is unclear whether the pillar will be subsumed into a higher wall feature that wraps around the corner. As a related matter on the boundary works there is some concern on the success of a high wall wrapping around the corner of the site in terms of closing off the corner and hindering clear and unobstructed views of the turn and of the entrance ramp. Aside the visual character concerns there are designing out crime concerns. It is proposed that if unresolved that the matter is addressed by a planning condition for acceptable detail resolving the concerns.

In terms of the rear of the development the more modern treatment of the rear elevation, which is to be a mix of render and metal cladding with prominent glazed gables, is considered acceptable in the context of the building and where the annex provides some substantial screening. The works to the annex building involve replacing uPVC windows with grey aluminium and reforming the rear corner to integrate a covered terrace for the proposed unit. The works are considered acceptable.

Overall the proposal is considered to secure a positive reinvention of this civic building and presents a well-resolved suite of changes to make the building fit for residential use. The impact on heritage assets, the Upton Conservation Area and the immediate setting of the Grade 2\* Listed St Mary Magdalene's Church and Grade 2 Castle Chambers, and the wider kinetic setting of the group of listed civic buildings to the east, is considered neutral or slightly positive.

As detailed there are some minor matters to resolve regarding the success of the balcony features facing Union Street and the height and topping detail of the stone boundary wall, and its impact on the historic pillar. Members will be updated on the progress to resolve these minor points, however as they are minor it is considered acceptable to secure detail through a planning condition.

When considering policy guidance the proposal is deemed to be in accordance with Policies DE1, SS10 and HE1 of the Torbay Local Plan, TH8 of the Torquay Neighbourhood Plan, and is aligned with the guidance contained in the NPPF in terms of good design and heritage assets.

This conclusion considers the provisions of The Planning (Listed Buildings and Conservation Areas) Act, which requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of conservation areas and the setting of listed buildings.

### **3. Residential Amenity**

The Torbay Local Plan contains policy guidance (principally through policies SS11, H1 and DE3) towards ensuring that residential development produces high-quality living environments that present a good level of amenity for future users and neighbouring occupiers. Policy DE3 also identifies size standards for self-contained units, which reflect national space standards.

The NPPF (Para 130) 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

In terms of location the central setting is considered positive for the future use and well suited to a residential occupancy, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options, which is all positive.

In terms of the proposed units the main building is converted and extended to provide 12 2-bed apartments, whilst the annex building would provide a 3-bed unit. Although this presents a largely uniform character of unit they are generously scaled and would present attractive propositions for single occupants, couples, or small families, which presents some potential diversity in terms of occupation. This is noted in respect to seeking to influence mixed and balanced communities. Overall, the form of the proposed units is considered a positive in the terms of the Community Investment Area, as it doesn't seek small bedsits or small apartments.

The size of the units comfortably exceed the minimum National Space Standards, which are also engrained within Policy DE3 of the Torbay Local Plan, and key living spaces are also generally well scaled and proportioned. These aspects are positive influencers in terms of amenity.

In terms of natural light and outlook the internal arrangement, which loosely divides the main building into quarters on the 3 main floors, provides dual aspect apartments with adequate light and outlooks. The annex apartment also has multiple aspects and good light and outlooks. There will be some shading from the adjacent trees facing east towards the church however the units are dual aspect which reduces the impact, and outlooks towards natural features have some benefit. It is noted that the lower ground floor apartment is single aspect and faces east towards the boundary with the churchyard. The adjacent trees within the churchyard will influence light and outlook afforded this unit, however on balance the unit is considered to offer an acceptable living space being mindful of there being some tangible benefits of a 'green' outlook.

In terms of outdoor amenity space Policy THW4 of the Torquay Neighbourhood Plan seeks that flats or apartments must 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. Policy DE3 of the Torquay Local Plan similarly expects apartments to offer 10sqm of outdoor space individually or communally. Most apartments within the scheme would benefit from some degree of

outdoor space, either from private gardens, balconies or terraces, albeit not to the scale expected by the Development Plan Policies. These elements are positive and would enhance the residential environments but, when considering the central location and proximity to urban parks, the provision of such areas is welcomed but not necessary, certainly as town centre living is often bereft of outdoor private space. Notwithstanding policy advice within the Development Plan the provision is considered acceptable in this particular context.

Cycle parking and waste storage facilities are to be provided in a safe and secure under-croft, courtyard and lower ground floor, which provides positive supporting facilities. The amount of cycle parking is considered adequate and there appears sufficient storage space for the necessary bins.

In terms of impacts upon adjacent occupiers the proposed use is comfortably aligned with the established mixed character of the area and would not impact adjacent buildings or uses.

In terms of designing out crime it is proposed that a planning condition can address the receipt and consideration of detailed design elements to limit the susceptibility of the development to crime. The condition referencing the Police's initiative Secured By Design.

Having regard to the amenities provided within the proposal for future occupants the scheme is considered sufficiently aligned with the aims and objectives of Policies SS11, H1, DE1 and DE3 of the Torbay Local Plan 2012-2030, and the NPPF.

#### **4. Highways and Movement**

The NPPF guides that in assessing specific applications for development it should be ensured that (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location; b) safe and suitable access to the site can be achieved for all users; c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 110).

The Development Plan, largely through Policies TA1, TA2 and TA3 of the Torbay Local Plan, outlines similar policies goals as the NPPF, but also guides on parking levels and support towards promoting sustainable travel and providing sustainable transport facilities within new development. The Torquay Neighbourhood Plan supports the provision of parking outlined in the Local Plan in Policy TH9 and supports the encouragement of development that provides good access opportunities and thus reducing the need to travel within Policy TTR2.

The proposal includes 14 car parking spaces within the courtyard/under-croft area, with cycle parking for 20 cycles in the same area and further facilities within the adjacent enclosed courtyard. The courtyard is secure behind a gated access set 6m back from the adjacent road, slightly amended to respond to Highway Authority

comments. Development Plan parking standards guide that the estimated requirement for apartments is 1 space per apartment and that visitor parking should be provided. In the context of a town centre site 14 car parking spaces is considered more than adequate where there is more opportunity to make journeys through walking, cycling and more sustainable modes such as buses and trains. This position is supported within the Development Plan, which clearly states that greater flexibility on the levels of parking provision should be considered in town centres. The cycle parking facilities are safe and secure, within a covered gated under-croft, and exceed the amount expected by the Development Plan, which is 1 per apartment. The provision is considered satisfactory.

It is noted that the highway authority has raised a request for further consideration of vertical cycle parking however standard parking is shown on the more recent plan submitted. There is also a request for justification regarding the car parking provision and further evidence as to the feasibility of the proposed car park layout. The level of parking is considered acceptable and there is a swept path plan showing access and egress of the furthest space. The layout appears generally workable, there are spaces that aren't afforded the extra width detailed in the highway guidance, but they do not appear overly compromised. Considering that there is flexibility on parking numbers the current level of detail and layout is considered acceptable. It is noted that a revised layout has been submitted responding to the request from the highway authority.

The proposal is considered acceptable on highway and movement grounds, providing development in a sustainable location with adequate car and cycle parking facilities, in accordance with Policies TA1, TA3 and DE1 of the Torbay Local Plan, Policy TTR2 of the Torquay Neighbourhood Plan, and the NPPF.

## **5. Ecology**

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 174).

The site is a developed urban plot with limited ecological features present. The application is supported by an ecology report that confirms that protected species or habitats would not be effected by the development.

In terms of biodiversity goals the report does reflect that NPPF seeks to maintain and enhance biodiversity within planning policies and decisions with regards to new development and that the development should incorporate bat and bird friendly features within its design, and in particular Swift boxes should be incorporated to provide potential nest sites for this declining species of bird. It also cites that any new landscaping should use native species or those beneficial to wildlife to address this requirement. In terms of precautionary advice that report also confirms that nesting

birds must be considered against disturbance during nest building and nesting; typically between March-August inclusive to avoid contravening the legislation which protects them.

Subject to conditions to secure enhancement measures the proposals are considered in accordance with the aspirations of Policies SS8, DE1 and NC1 of The Torbay Local Plan, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

## **6. 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 policy outlines a hierarchy for water-flow management within new development, and similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay.

The Council's drainage advisor (TDA) has advised that as the site is located in Flood Zone 1, is not in an area susceptible to surface water flooding and the planning application relates only to a change of use, there is no objections on drainage grounds to planning permission being granted. The proposal is considered acceptable in terms of drainage and flood risk. South West Water has raised concern that the application has not presented sufficient information to demonstrate that the sustainable hierarchy in the Development Plan cannot be followed.

The proposed controlled discharge will significantly reduce the rate of flow to the combined sewer system over the currently unrestricted discharge. Notwithstanding concern from SWW regarding lack of clarity on accordance with the hierarchy within the Development Plan there is support from the Council's drainage officer acting as the Lead Local Flood Authority.

As the proposal is principally a change of use with reduced flood risk from improving the existing surface water drainage system the proposal is considered acceptable.

The proposal is considered comfortably aligned with the aims and objectives of Policies ER1 of the Torbay Local Plan and the NPPF.

## **7. Low Carbon / Climate Change**

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. ES1 also states that the retrofit of energy efficiency measures to existing buildings will be encouraged and supported, and that opportunities for reducing carbon emissions associated with energy use will be sought through the development management process as part of the wider conversion/ refurbishment of buildings where planning permission is

required. Policy W1 (Waste hierarchy) of the Local Plan seeks that all development should seek to minimise the generation of waste, having regard to a waste hierarchy, which includes prevention, for example using less material in design and other measures to minimise waste generation.

The Design and Access Statement submitted in support of the proposal includes a section on energy efficiency. It cites that the development will look to minimise CO2 emissions in accordance with the energy hierarchy of “Be Lean, Be Clean, Be Green”. Be Lean is linked to passive design measures, Be Clean is linked to the use of clean energy source technologies, and Be Green is based on considering the potential for renewable energy sources. The statement cites that the first two are expected to significant CO2 savings, with the third having the potential to maximise CO2 production. The concepts are supported however it is considered necessary to secure a demonstrable understanding of the carbon credentials of the scheme via a planning condition should planning permission be granted.

The reuse of the building is supported in terms of utilising the embodied energy within the building. This includes reusing material within the partial demolition for stone walls and the upper floor stone façade.

The development is, for the reasons above and subject to the detailed condition, considered suitable for approval, in accordance with Policies SS14 and ES1 of the Torbay 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**

Housing provision is a driver of economic growth and there would be economic benefits of bringing the site into use and into a residential use. Aside the longer-term economic benefits of local spend from occupants the construction phase would also create jobs within the local economy. There are no adverse economic impacts that would arise from this development. The building has not been used for 5 years and the provision of 14 households in the town centre will help town centre vitality and viability. In respect of the economic element of sustainable development the balance is in favour of the development.

### **The Social Role**

The principle social benefit of the proposed development is that it would help deliver good-sized units, largely 2-bed, that could be occupied by singles, couples or small families, helping aspirations towards mixed and balanced communities. This would be in an area that would be well located for shops, services and job opportunities for occupants. In respect of the social element of sustainable development the balance is in favour of the development.

## **The Environmental role**

The environmental benefits are considered positive. It provides a long-term use for a building that has embodied energy within its fabric and the sustainable central location provides lifestyle opportunity that may be less reliable on cars and reduces need for travel. In respect of the environmental element of sustainable development the balance is in favour of the development.

## **Sustainability Conclusion**

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

## **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**

### **CIL**

The land is situated in Charging Zone 1 in the Council's CIL Charging Schedule and residential units is chargeable development, this means that all new floorspace will be charged at a rate of £30/sqm unless exempt.

Based on the submitted CIL form, which provides an indication, subject to formal determination, that the proposal, which is stated as delivering 1962sqm of CIL liable floorspace, is likely to deliver circa £ 58,860.00 in CIL payments.

### **S106**

Site Acceptability Matters: None.

Affordable Housing: N/A for this scale of development on a brownfield site.

Sustainable Development Matters: N/A as CIL liable development. Waste obligations requested by SWISCo cannot be sought as they are deemed SD obligations within the Council's Planning Contributions and Affordable Housing SPD.

S106 legal agreement hence not required. No obligations necessary to make the development acceptable.

### **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: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites.

### **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 promote reuse brownfield sites and provide housing would produce a positive impact overall. It is also noted that it will also trigger CIL payment of approximately £58,860.00.

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

The change of use and alterations are acceptable from a policy perspective and will provide a suitable use for the location in what is a defunct law court building and deliver much needed housing.

The proposal will provide an acceptable standard of accommodation when considered in the round and in the location is very sustainable with easy access to shops, facilities, employment opportunities, sustainable transport modes, and local parks.

Subject to appropriate Conditions the proposal is recommended for approval.

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 for the reasons stated within this report.

### **Officer Recommendation**

Approval: Subject to the conditions as outlined.

### **Conditions**

#### **Boundary solution**

Notwithstanding detail on the plans hereby submitted and approved, prior to works commencing to the existing boundary wall bordering Union Street and Trematon Avenue a revised boundary detail and general enclosure plan for all means of enclosures between the building and the public highway shall be submitted and approved in writing by the Local Planning Authority. The boundary detail and enclosure plan shall seek to;

- I. Retain the existing pillar and adequately resolve an enclosure detail that secures its form and historic value.
- II. Provides a boundary treatment for the corner of the plot and an enclosure detail for the adjacent terrace/garden that responds positively to the public realm and limits
- III. Where practicable incorporates a cock-and-hen topping detail that responds to local character of walls in the immediate vicinity.

The development shall proceed in full accordance with the approved detail and the boundary treatments shall be completed prior to occupation of the development

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 OF THE Torquay Neighbourhood Plan, and the NPPF.

#### **Detailed Design - PI**

Prior to the installation the following details, to a scale between 1:1 and 1:5 where appropriate, shall be submitted to and approved in writing by the Local Planning Authority;

- (i) metal Juliet balcony enclosures
- (ii) frameless glass balcony and terrace enclosures
- (iii) detailed design and finish of the principal entrance
- (iv) all sill and head details to apertures
- (v) finishing detail of projecting balconies
- (vi) detailed form and colour of metal cladding

The development shall proceed fully in accordance with the approved detailed design elements on the submitted and approved plans (including the approved reveal depths).

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 OF THE Torquay Neighbourhood Plan, and the NPPF.

#### **Stone**

All stone within the proposed building or reformed/extended boundary walls shall be natural stone reclaimed from demolition within the development hereby approved. Should additional stone be required it shall match, in colour and form, that which exists within the building or boundary wall.

All stone shall laid/formed shall match that of the existing building and boundary.

Reason: To secure appropriate form of development in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 OF THE Torquay Neighbourhood Plan, and the NPPF.

#### **Energy / Low Carbon - PC**

Prior to the commencement of development an Energy Statement, which responds in detail to the Energy Strategy outlined within the submitted Design and Access Statement, specifically how the development limits its carbon production through its lifetime from detailed consideration of the stated "Be Clean" and "Be Green" concepts, shall be submitted to and approved in writing by the Local Planning Authority.

The approved measures within the submitted and approved Energy Statement shall be incorporated within the development in full prior to occupation of the development and thereafter be maintained and operational.

Reason: In the interests of sustainable development and to minimise carbon emissions in accordance with Policy SS14 and ES1 of the adopted Torbay Local Plan 2012-2030. These details are required pre-commencement in order to inform the construction phase.

### **Secured by Design**

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable.

The approved measures shall be incorporated within the development in full prior to occupation of the development and thereafter be maintained and operational.

Reason: In the interests of crime prevention in accordance with Policy DE1 of the Torbay Local Plan and Policy TH2 of the Torquay Neighbourhood Plan.

### **Hours of Construction**

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 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.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development, in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

### **Nesting Season**

Within the nesting season, March to August inclusive, prior to the commencement of any works to the existing roof of the building a preliminary assessment shall be undertaken to establish any presence of nesting birds. Should nesting birds be found all works to the roof shall stop until the bird have fledged and a suitably qualified ecologist has confirmed that works can commence.

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

### **Ecology – biodiversity enhancement - PO**

Prior to the first use of the building measures to maximise opportunities for biodiversity enhancement in and around development, to deliver a net gain for biodiversity, shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the submitted ecology report.

The approved measures shall be delivered in full prior to the first occupation of the development and maintained for their purpose thereafter through the life of the development.

Reason: To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF

### **Parking provision - PO**

Prior to the first occupation of the development the parking facilities hereby approved shall have been provided in full. These elements shall thereafter be retained in full as parking facilities to serve the development for the life of the development.

Reason: To secure an appropriate form of development in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030 and Policies TH8 and TH9 of the Torquay Neighbourhood Plan.

### **Electric charging facilities - PO**

Prior to the first occupation of the development details of the location and form of electric car charging facilities to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The provision shall serve no less than 20% of the development.

The charging facilities shall be implemented in full and made available for use prior to the first use of the building and shall be always maintained and available for use thereafter to serve the development.

Reason: To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

### **Cycle parking provision - PO**

Prior to the first use of the development the approved cycle parking facilities shall be completed and made available for the purpose of cycle parking to serve the development. Once provided, the cycle parking facilities shall be retained for the life of the development for such purposes.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and TA3 of the Torbay Local Plan 2012-2030.

### **Waste provision - PO**

Prior to the first occupation of the development the waste and recycling storage facilities shall be completed and made available for the purposes of waste storage to serve the development. The approved waste storage arrangements shall thereafter be retained for the life of the development.

Reason: In interests of amenity and in accordance with Policies DE1, DE3 and W1 of the Torbay Local Plan 2012-2030.

### **Boundary treatments / means of enclosure**

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no means of enclosure, other than those detailed within the plans hereby approved, including gates, fences, walls or other means of enclosure, shall be erected/installed within the development.

Reason: In order to safeguard the character and visual amenities of the locality in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

### **Dwelling Use / Small HMO PD**

Notwithstanding the provisions of Schedule 2, Part 3, Class L (small HMOs to dwellinghouses and vice versa), of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), all residential units hereby approved shall be used and occupied solely as Class C3 Dwelling-houses, by: (a) a single person or single household; (b) a single household of not more than 6 residents where care is provided; or (c) a single household of not more than 6 residents, and for no other purposes.

Reason: In order to ensure a satisfactory form of development in accordance with Policy SS11 of the Torbay Local Plan 2012-2030.

## **Informative(s)**

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.

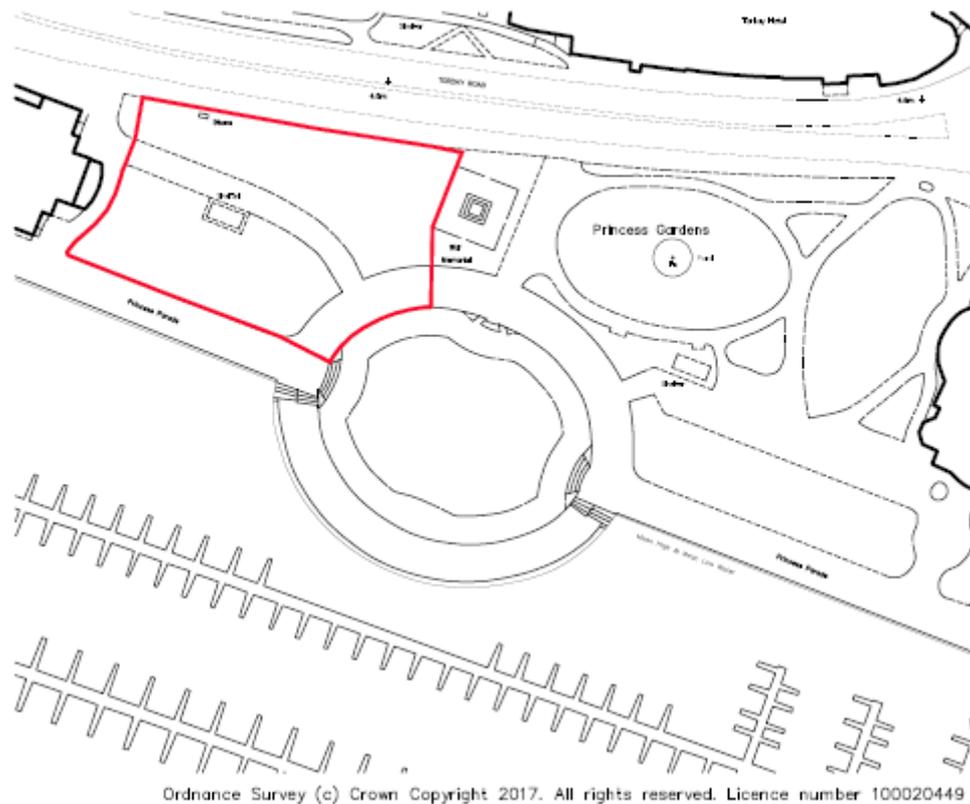
## **Relevant Policies**

### **Development Plan Relevant Policies**

SS1 - Growth Strategy for a prosperous Torbay  
SS3 - Presumption in favour of sustainable dev  
SS10 – Conservation and the historic environment  
SS11 – Sustainable communities  
SS12 – Housing  
SS13 – Five year housing land supply  
TC1- Town Centres  
TA1 - Transport and accessibility  
TA2 - Development access  
TA3 – Parking requirements  
DE1 - Design  
DE3 - Development Amenity  
DE4 - Building heights  
ER1 - Flood Risk  
ER2 - Water Management  
ES1 – Energy  
HE1 – Listed buildings  
W1 - Waste management facilities  
W2 – Waste audit for major development and significant waste generating developments  
NC1 - Biodiversity and geodiversity  
C4 – Trees, hedgerows and natural landscape features

TS1 - Sustainable Development  
TS4 - Support for Brownfield and Greenfield development  
TH8 - Established architecture  
TH9 – Parking facilities  
TT2 – Change of use in conservation areas and listed buildings  
THW4 – Outside space provision  
THW5 - Access to sustainable transport  
TH2 - Designing out crime  
TE5 - Protected species habitats and biodiversity  
TTR2 – Sustainable communities

Application Site Address	Land At Princess Gardens Off Torbay Road Torquay TQ2 5EY
Proposal	Change of use of land for the temporary erection and operation of an observation wheel and ancillary development, for a one-year season (between the period of March to October 2023)
Application Number	P/2022/1032
Applicant	James Mellor Ltd
Agent	GPS Planning and Design Ltd
Date Application Valid	15.09.2022
Decision Due Date	10.11.2022
Extension of Time Date	
Recommendation	<p>Approval: Subject to;</p> <p>Prior to the grant of planning permission a 'Conservation Mitigation Obligation' to the sum of £20,000 secured through legal agreement, for restoration works to the adjacent listed War Memorial.</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional 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	Torbay Council Land.
Planning Case Officer	Scott Jones



### **Site Details**

This is a sensitive location, it is prominent within the Torquay Harbour Conservation Area, is near to a Grade II Listed building (Pavilion) and set within Princess Gardens which is a Grade II entry on the Register of Historic Parks and Gardens. It is adjacent to the War Memorial and near to the Fountain, which are both also Grade II listed structures.

The site is also in a Core Tourism Investment Area (CTIA), a Coastal Change Management Area, and a Flood Risk Area, as designated within the Torbay Local Plan. The site and wider area is also a Local Green Space, as designated within the Torquay Neighbourhood Plan.

The land is owned by Torbay Council.

### **Description of Development**

This application seeks the erection of a 33m observation wheel, two ticket offices, and an ancillary catering unit with seating area, within Princess Gardens, Torquay. The application seeks the temporary change of use of land for these purposes for one 'summer' season (between period of March to October 2023).

The observation wheel is to be sited between the War Memorial and Princess Theatre, perpendicular to the adjacent highway.

Ticket offices are set either side of the wheel, one being 3.5m by 3.5m and one being 4m by 2m. The catering unit is 6m by 2.5m and is proposed just to the seaward side of the wheel, with a seating area temporarily dressed with AstroTurf.

The submission includes a draft legal document outlining the Developers' undertaking to pay the sum of £20,000 for conservation purposes, namely the restoration and related works to the adjacent listed War Memorial.

### **Pre-Application Enquiry**

N/A.

### **Relevant Planning Policy Context**

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

#### **Development Plan**

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

#### **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**

#### **Observation Wheels:**

P/2012/0690: Temporary consent for Observation Wheel between 13th August and November 2012. Approved.

P/2013/0167: Temporary Consent for period 24th May- 5th November. Approved.

P/2014/0193: Temporary consent for period March-October 2014. Approved.

P/2015/0042: Temporary consent for period March-November 2015. Approved.

P/2016/0384: Temporary consent for a period until 31st October 2016. Approved.

P/2017/0092: Change of use of land for the temporary erection and operation of a 50m observation wheel, carousel and associated ancillary development (5-year period between the period of March to the 31st October). Approved.

P/2021/0708: Variation of Condition relating to application P/2017/0092 (Change of use of land for the temporary erection and operation of a 50m observation wheel, carousel and associated ancillary development (5-year period between the period of

March to the 31st October)). Condition: 01 - Temporary Use (Mar-Oct). Extension of usage time ending from October 2020 to October 2021. Approved.

P/2022/0211: Change of use of land for temporary erection/operation of observation wheel, with ancillary development. One-year season (between period of March to October 2022). Approved.

### **Summary of Representations**

5, 4 from the Torbay Heritage Trust and one from an individual.

Summary of key comments:

- Harmful Impact, to the Grade II Listed Gardens.
- Highly detrimental preventing, removal of Princess Gardens from at risk register.
- Omission of essential report by an independent specialist Conservation Officer.
- No report signed by member of Institute of Historic Building Conservation IHBC
- Torbay Cultural Heritage 2021-2030. Non-compliant with mission statement.
- Challenge to the findings in the supporting information, Planning Statement.
- Fails government desire and legislation NPPF for building beautiful.
- Omission of a finance statement of income and defined direction of expenditure.
- Failure to apply for available Heritage funding for Listed Structures.
- Proposals contrary to the NPPF and Local Plan Heritage policies
- Proposals do not preserve or enhance the character or appearance of the Conservation Area.
- Detrimental to the important settings of the Listed Buildings and Listed structures.
- Noise Level has removed the tranquility and character of the Listed Park
- There are no special circumstance to permit this high impact development.
- Supporting Historic England, the proposals are :”an overly alien presence”
- Detrimental the overall design and visual impact.
- Design not reviewed by an Independent Design Review Panel
- No forward planning to site the Wheel outside the boundary of the Listed Gardens.
- Lack of planning proposal for nature and tree planting,
- Poorly designed visitor development.
- Permitting heavy vehicle parking and addition steel accommodation units within Wheel site.
- Princess Gardens Masterplan, 2017. Retaining policy, the wheel for permanent” siting,
- The consecrated War Memorial landscape, is not honoured and conserved.

### **Summary of Consultation Responses**

#### **Historic England**

Historic England's position:

We have continuing concerns about the presence of the wheel in this prominent position in Torquay, which causes a high degree of less than substantial harm to a number of heritage assets. Notwithstanding these concerns, if the revenue from the

wheel can bring forward defined improvements to the Registered Park and Garden and will result in the RPG being removed from the Heritage at Risk register than your authority should consider these in the balance between harm and public benefit.

Historic England's recommendation:

Historic England recommends that any consent issued by your authority (should it find the development acceptable) should be closely tied via condition or legal obligation to identifiable public (heritage) benefits. We recommend that you liaise with your local conservation advisor in relation to this list, and that the outcome is closely monitored. We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 199, 200 and 202 of the NPPF.

In determining this application you should bear in mind the statutory duty of section 66(1) 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 same Act, to pay special attention to the desirability of preserving or enhancing the character or appearance of conservation areas.

#### Torbay Council Heritage Advisor

The adopted Torbay Heritage Strategy includes an objective to ensure 'Princess Gardens and Royal Terrace Gardens are maintained and protected for the future'. I am therefore conscious of this proposal and its impact on the registered Princess Garden and the character and appearance of the Torquay Harbour Conservation Area.

I note the planning history and continued evolving discussion around the public benefits and heritage gain associated with this and previous applications. The restoration of the fountain and recent public realm works, including surfacing, have been a positive step forward in terms of heritage gain.

We clearly need to resolve the issues around the inclusion of the gardens within the Heritage at Risk Register, particularly given the link to our Heritage Strategy. This current application could contribute to resolving features which keep the gardens at risk. It is important we consider and protect the overall integrity of the gardens and understand what is the next priority for repair and restoration. In my view, there are a range of options available including the war memorial, potential repair to the original harbour railings and posts, public shelters, particularly the shelter to the west of the Torbay Hotel. These features are all located within the designated asset.

In terms of this current application and heritage gain, the war memorial seems the most logical choice as it is listed in its own right. I would like to see an assessment demonstrating the potential for restoration particularly of the stonework and lettering.

As for future applications and the long term siting of the wheel, it is clear that the gardens have seen recent improvements and there could be other prioritised works described above which could be defined as being of public benefit. However, it is unlikely that this could be a rolling programme and there will come a time when the

issues are resolved and we can request that the gardens be removed from the Heritage at Risk Register.

Returning to my first point, the wheel has a significant visual impact on the highly sensitive Princess Gardens and the Torquay Harbour Conservation Area. The surfacing, additional supporting structures and buildings also contribute to the impact on the gardens. I would therefore welcome a continued dialogue on the future use of the gardens for the wheel.

In conclusion, the siting of the wheel is considered to be less than substantial harm which is short-term and temporary in nature, subject to my comments above. Material considerations should ensure that the benefits outweigh that harm in order to align with the NPPF paragraphs 199, 200 and 202, Local Plan policy and objectives set out within Torbay Heritage Strategy. It is clear that weight should be afforded to the protection and enhancement of assets. Whilst there are demonstrable long term heritage gains identified within the RPG, in this case proposed funding towards restoration works to the listed war memorial, it is reasonable to conclude that the harm is appropriately mitigated.

#### Drainage Engineer (Swisco)

The development lies within Flood Zones 1 and 2 and therefore the developer has submitted a site specific flood risk assessment, which addresses these issues.

The application form identifies that surface water run-off from the new development will be discharged to a soakaway.

Based on the above comments, I can confirm that that as the developer is proposing to discharge his surface water drainage to a soakaway, please use the recently agreed standing advice for this planning application.

#### Community Safety Officer

No objection to planning permission being granted.

#### Highway Authority (Swisco)

The Local Highway Authority would raise no objection to the catering unit. However, a Pavement Cafe Licence may be required.

### **Planning Officer Assessment**

#### Key Issues/Material Considerations

1. Principle of the development,
2. Impact on heritage assets,
3. Design and visual impact
4. Impact on adjacent amenity,
5. Impact on trees,
6. Ecology and the marine environment.
7. Flood risk

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

The site is a designated Local Green Space within the Torquay Neighbourhood Plan under Policy TE2 (TLGST2). The policy guides that development is ruled out, other than in very special circumstances. The policy cites that very special circumstances may include minor improvements to community access, or facilities that support their use for public recreation or amateur sports, or development allowing reasonable small extensions in a style that reflects the setting and the local area which would be consistent with the LGS designation. The proposal is temporary in nature and is a unique tourism facility, over period from March 2023 to October 2023. In the context the development, subject to wider considerations, is considered to accord with the principles of the policy and the guidance contained within Policy TE2, and thus is an acceptable form of development within the designated greenspace.

In terms of the Torbay Local Plan Policies SDT2 (Torquay Town Centre and Harbour), TC1 (Town centres), TO1 (Tourism, events and culture) and TO2 (Change of use of tourism accommodation and facilities) provide relevant policy guidance on the principal of a leisure attraction on the edge of Torquay Town Centre and Harbour.

Policy SDT2 seeks to reinforce Torquay Town Centre as the principal retail and leisure centre of the Bay, to become the key sub-regional retail and leisure destination and to provide a vibrant and more enjoyable shopping and leisure environment.

Policy TC1 centres on retail and town centre uses and reinforces the town centre first approach. Two criteria apply and there is a notion of support for development for mixed use edge of centre developments that help achieve more balanced communities by delivering a mix of uses including employment and leisure, which is relevant (Criterion v), and the use of heritage assets, public art and public space, events, exhibitions and festivals to provide a more enjoyable, creative environment (Criterion viii).

Policy TO1 seeks that Torbay's tourism offer will be developed in a sustainable and competitive manner, to enhance its role as a premier tourism destination. It furthers that tourist facilities will be improved, and modernised and new tourism facilities provided, in order to attract new visitors. The policy supports in principle the provision of new tourist attractions, subject to other Policies in the Local Plan. The policy supports the retention, improvement and creation of high-quality tourism and leisure attractions in sustainable, accessible, locations with a particular focus on Core Tourism Investment Areas as the areas for investment in tourism.

Policy TO2 seeks that within Core Tourism Investment Areas that the role of premises should be retained and enhanced commensurate with their contribution to the area's tourism offer.

The provision of an observation wheel within a well-located local greenspace, that's in a central and sustainable location within what is a Core Tourism Investment Area, is considered to be supported in principle when considering the greenspace, town centre and tourism policies cited above, subject to other material considerations.

In conclusion the principle of the temporary provision of an observation wheel is considered to align with the development plan aspirations in terms of supporting and

promoting tourism facilities, subject to wider considerations, including the heritage impacts.

## **2. Impact on the Heritage Assets**

This is a sensitive location, it is prominent within the Torquay Harbour Conservation Area, is near to a Grade II Listed building (Pavilion) and set within Princess Gardens which is a Grade II entry on the Register of Historic Parks and Gardens. It is adjacent to the War Memorial and near to the Fountain, which are both also Grade II listed structures.

In terms of the Torquay Neighbourhood Plan Policy TT2 (Change of Use in Conservation Areas and Listed Buildings) provides some key guidance. The policy guides that within designated Conservation Areas or where Listed Buildings are involved, whether inside or outside of a CTIA, change of use from tourist accommodation and other development proposals requiring consent will be supported in principle (subject to other policies in the Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

Policies SS10 and HE1 provide key advice within the Torbay Local Plan. Policy SS10 requires development to sustain and enhance assets and adds that all assets will be conserved proportionate to their importance and concludes that proposals that enhance heritage assets or their setting will be supported. Policy HE1 central guidance is that development proposals should have special regard to the desirability of preserving any listed building and its setting.

The Council adopted a Heritage Strategy in November 2020. Objective RST04 is that Princess Gardens and Royal Terrace Gardens are maintained and protected for the future. The measure of success is cited as being that the Gardens continue to be maintained to a high quality and the Gardens are removed from the Heritage at Risk Register.

The NPPF also provides advice, with Para 197 citing that local planning authorities should take account of;

- i) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- ii) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- iii) the desirability of new development making a positive contribution to local character and distinctiveness.

The NPPF also provides key advice in terms of considering potential impacts, with Para 199 guiding that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be), and Paras 200-202 furthering that any harm should require clear and convincing justification and the judgments to be made.

The proposal presents a significant change to the character of the registered park and

garden for a temporary period, in this case one (extended) summer period. This presents some harm to the character of the park and some harm to the setting of the nearby listed Pavilion building and listed structures within the park. The key consideration is the judgment on the temporary harm of placing the wheel and associated temporary structures over the medium/long term benefit of the direct 'conservation gain' being proposed. In this application the proposal is to provide £20,000 for identified improvements works to the nearby listed war memorial. Works to the memorial are identified within the Council's Heritage Management Plan for Princes Gardens.

This concept of seeking to offset short term harm with demonstrable conservation gain follows the concepts tabled and accepted within previous applications for the temporary placement of a wheel in the park. Notably the previous 5-year temporary permission secured around £130,000 that directly funded the recent restoration of the adjacent listed fountain, and the more recent 1-year temporary permission for the summer season of 2022 provided £20,000 towards the renovation works to the War Memorial.

The observation wheel will be close to the Listed War Memorial and within the setting of the Listed Fountain, but care has been taken to ensure a suitable gap to the War Memorial and retained horizontal and vertical space, and retained circulation, so as not to unduly crowd or restrict access around this structure. The proposal does have an impact upon the setting but does not impact the Listed structure itself. The impact upon the setting of the Listed Fountain is less due to the distance and again the impact is one of setting and it does not impact the Listed Structure itself.

More broadly in terms of the visual prominence and setting of the Registered Park and Garden the observation wheel, when approached from the east (from Cary Green / the Pavilion) the wheel will again be partially set against the backdrop of the theatre building, which will lessen its visual prominence. From the west the theatre building will partially obscure views on the approach. From the north along Torbay Road and/or Rock Walk, the wheel will be partially obscured by the line of mature London Plane trees. From the south, from the sea or pier, the cliffs of rock walk provide a frame behind the structure that will also lessen its visual prominence. Having considered the context and constraints it is considered that the site appears the least harmful location for the wheel if it is to be placed within the Registered Park and Garden, but it still presents harm, which is considered less than substantial, due to the temporary nature of the development and the permeability of the structure in terms of views through the wheel.

Regarding the other forms of development proposed these elements are far more diminutive in scale and hence the potential harm is more limited. The proliferation of clutter is however an issue of concern for the Registered Park and Garden. It is however considered fair to assume that the accumulation of structures will present some form of harm, which is less than substantial, but again these are temporary and should be considered against the short and longer term public benefits.

The submission presents that the heritage impact of granting permission for one summer would be offset through the proposed ring-fenced investment in the Registered Park and Garden of £20,000. It is suggested that the potential

conservation gains proposed, together with the economic and tourism benefits, adequately offset the less than substantial harm on the heritage assets, in accordance with the NPPF guidance.

Historic England have commented on the application and although they have offered continuing concerns about the presence of the wheel, they have also recognised that revenue from the wheel can bring forward defined heritage improvements, and if it aids the Gardens being removed from the Heritage at Risk register then the Authority should consider the balance between harm and public benefit. Their recommendation furthers that any consent issued by the authority (should it find the development acceptable) should be closely tied via condition or legal obligation to identifiable public (heritage) benefits, in order for the application to meet the requirements of paragraphs 199, 200 and 202 of the NPPF.

The council's conservation advisor has advised that the concept of securing improvements to what is an 'at risk' registered park and garden is aligned with the Council's recently adopted Heritage Strategy, and that funding of the war memorial is a logical step. The summary of the advice is that the siting of the wheel is considered to be less than substantial harm which is short-term and temporary in nature, that material considerations should ensure that the benefits outweigh that harm in order to align with the NPPF paragraphs 199, 200 and 202, and in this case the proposed funding towards restoration works to the listed war memorial, it is reasonable to conclude that the harm is appropriately mitigated.

In terms of the balance of heritage harm and heritage benefit it is considered that the impacts are short term and reversible in nature, and any harm would be sufficiently offset by the 'conservation gain', which is funding towards the restoration of the listed War Memorial. This aligns with local conservation advice.

It also remains pertinent that wheel has been immensely popular, has attracted tourists, created a dramatic and striking feature within the townscape and has generated economic benefits for the town in terms of increased spend. Once removed, the former site has been quickly reinstated to its former condition and such arrangements could again be secured by condition for its new location.

In the circumstances, given the conservation, economic and tourism benefits of the wheel, and subject to achieving the identified conservation 'gains' to offset the less than substantial harm, there would appear sufficient public benefit to permit a one year (extended summer season) permission in the location proposed when considering the level of harm to heritage assets.

The scheme, subject to the above, would be compliant with Policies SS10 and HE1 of the Torbay Local Plan, Policy TT2 of the Torquay Neighbourhood Plan, and advice contained within the NPPF regarding heritage assets and less than substantial harm.

The above conclusion has considered the duty to have special regard to (1) the desirability of preserving any listed building or its setting or any features of special architectural or historic interest which it possesses and (2) the desirability of preserving or enhancing the character or appearance of any conservation area, as detailed within the Planning (Listed Buildings and Conservation Areas) Act 1990.

### **3. Design and visual impact**

Regarding the impact of the development upon the wider townscape Policy DE1 (Design) provides pertinent advice.

Policy DE3 states the development should be well-designed, respecting and enhancing Torbay's special qualities, with design considerations on (i) function, (ii) visual appeal and (iii) quality of public space.

In terms of function the structures are temporary in nature and the temporary impact of placing them within Princess Gardens will not alter the adaptability of the space in terms of future change and need. The development is also aligned with functionality in terms of providing diversity to the Park's longstanding tourism and recreation use. The development will also integrate within the constraints of the green infrastructure and principal routes through the Park, with the main thoroughfares unaffected.

In terms of visual appeal the observation wheel is a very prominent and distinguished structure that would be very striking within the townscape. The character and permeability of the wheel will however protect long-distance public views and, through its use, the wheel will also introduce new view-points for residents of and visitors to Torbay. Overall in terms of visual appeal the wheel will have an impact upon the townscape due to its scale and prominence, however the impact is considered limited as the structure is temporary in character, lightweight in terms of how it retains views through it.

In terms of the quality of the public space the location of the development seeks to respond to and address the key public routes through the Park and limit the impact upon these routes. As a unique attraction that is only in a handful of locations nationally the development has the potential to enlighten the experience of the Park and wider promenade as a recreational destination.

Considering the character, form and location the development is considered suitable for the context and in accordance with the aims and objectives of Policy DE1 of the Local Plan 2012-2030.

### **4. Amenity**

Policy DE3 (Development amenity) of the Torbay Local Plan seeks to secure development that does not unduly impact upon the amenity of neighbouring and surrounding uses, with impact being assessed to include noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution.

The scale and location are consistent with a previous consents. Its form and location would have little impact upon the commercial operations around the gardens and immediate area, due to its form and location. The development may have a more demonstrable beneficial impact on neighbouring commercial operations where they may benefit from the additional footfall and tourism interest that the wheel and carousel is likely to generate.

In terms of residential impact the nearest adjacent properties on Warren Road sit on higher ground to the north of the wheel, approximately 100 metres from the proposed location. It has previously been determined that the impact on privacy and noise nuisance to residential properties 100meters away are not sustainable reasons to resist the wheel, subject to conditions to restrict the hours of operation and lighting. This opinion is maintained. It is noted that the wheel is a smaller scale than previously consented 50m wheel, which reduced the impact on properties on higher ground.

The wheel will be lit in a similar way to the previous operations/consents. The lighting has been previously considered acceptable and if similarly lit the wheel would not unduly impact neighbours.

In terms of amenity the wheel would be acceptable and compliant with Policy DE3 of the Torbay Local Plan.

## **5. Arboricultural impact**

There is a linear row of mature London Plane trees to the north of the proposed location, which are set along the adjacent footpath and frame the highway. These provide significant visual benefits to the character of the area and the setting of the Registered Park and Garden.

The location of the wheel appears to respond to the crown and rooting protection area of these trees and would appear to present a sustainable relationship. This location was previously considered acceptable on arboricultural grounds under the previous planning permission for the wheel, P/2017/0092 and more recently P/2022/0211. As the wheel is smaller its distance to the adjacent trees should be greater than the 50m wheel previously consented via the 2017 application. There has been no comments or objections from the Councils Tree Officer (Swisco) to counter the conclusions above.

There appears sufficient access to the site from the northwest adjacent to the Theatre which presently receives heavy goods vehicles to service theatre productions.

The proposal is considered acceptable on arboricultural merit and aligned with policies DE1 and C4 of the Torbay Local Plan.

## **6. Ecology and Marine Environment**

Policy TE7 - Marine Management Planning of the Torquay Neighbourhood Plan states that development proposals on land adjacent to the coastline will be supported where do not have an adverse effect on a marine policy or management plan. No comment has been received from the Marine Management Organisation, and it is noted that no objection was offered to the 5-year consent applied for in 2017.

The proposal is not considered to present any ecological impacts due to its location within an urban location and managed (closely mown) habitat. Although close to the coast the development is temporary in nature and sits above ground without disturbing the land. The operation is unlikely to impact the adjacent marine environment for these reasons. The development is not in conflict with ecology based policies of the

development plan or guidance within the NPPF.

## **7. Flood Risk**

The development is temporary in nature and involves limited areas where development/structures sit on top of the established land without presenting permanent change. These are the foot pads for the wheel, the small catering and kiosk units, and the Astro turf covering.

The application form identifies that surface water run-off from the new development will be discharged to a soakaway.

The development is not considered likely to increase flood risk. There is no objection to the proposal from the Councils Drainage Section (Swisco).

Subject to a planning condition to secure the proposed surface water management, the development is considered to accord with Policy ER1 of the Torbay Local Plan, and is considered acceptable on flood risk grounds.

## **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**

Tourism is an important economic sector and there would be economic benefits of from the wheel in supporting this sector and enhancing the facilities available during tourism trips and possible temporary employment opportunities. There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is in favour of the development.

### **The Social Role**

The principle social benefit of the proposed development is that it would help deliver job opportunities in the local area. the development will support this aspiration. The short terms benefits weigh in favour of the development.

### **The Environmental role**

The environmental benefits are considered neutral, with the form of development and planning conditions principally aligned with encouraging a sustainable form of development without impact. 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 when considered in the round.

## **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**

The development is a significant tourist attraction and is likely to increase footfall in the gardens.

There is proposed conservation payment of £20,000.00 to aid fund the restoration of a listed war memorial within what is a very prominent public area.

## **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: Due to the scale, nature and location this development is not considered to have a likely significant effect on European Sites.

## **Planning Balance**

The planning assessment considers the policy and material considerations in detail. There are no wider material considerations beyond the development plan.

## **Conclusions and Reasons for Decision**

It has always been accepted that a permanent occupation of land within the park for an observation wheel would be, in the long term, harmful to the architectural and historical character of the site. This is a short-term temporary application.

The proposed location is again in the less impacting position on the Grade II Listed Pavilion building (than the earlier location adjacent to it). It is also considered the least impacting location within the Registered Park and Garden.

Historic England has continuing concerns about the presence of the wheel, which it considered to cause less than substantial harm to heritage assets. Notwithstanding this stated position they do recognise that, if the revenue from the wheel can bring forward defined improvements to the Registered Park and Garden, then there is a balancing process between harm and public benefit.

The proposal presents a financial obligation of £20,000.00 to be spend specifically on restoration works to the Listed War Memorial and other projects defined within the Council's Heritage Plan for the Park. This presents a not insignificant degree of funding towards the project partly funded by the 2022 permission and a clear public and heritage benefit. There is also some economic public benefit from the wheel as an attraction for residents and tourists, and is a landmark attraction.

When taken in the round the medium and long term heritage benefits, and the economic and tourism benefits, are considered to outweigh the short-term temporary heritage harm to the Registered Park and Garden and setting of the Listed Structures within the Park and nearby Listed Buildings.

Subject to securing £20,000.00 as a financial obligation to secure conservation gain the development proposal, for a one year period, will accord with the aims and objectives of policies TC1, TO1, TO2, HE1, SS10, C4, DE1 and DE3 of the Torbay Local Plan 2012-2030, Policies TT2 and TE2 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

### **Officer Recommendation**

Approval: Subject to;

Prior to the grant of planning permission a 'Conservation Mitigation Obligation' to the sum of £20,000 secured through legal agreement, for restoration works to the adjacent Listed War Memorial.

The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.

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

### **Conditions**

#### **Time Limit**

01. The permission, allowing occupation of the site by the observation wheel and ancillary development, shall be for a temporary period only between the periods of March 2023 and October 2023 inclusive. The observation wheel and ancillary development shall be removed before 1<sup>st</sup> November 2023 and following removal the gardens shall be reinstated in accordance with details that shall have previously been submitted to and agreed in writing with the Local Planning Authority. The agreed scheme of reinstatement shall be implemented in full within 10 days following the removal of the development.

Reason: The use of the site by the development is only acceptable on a short term basis and more lengthy occupation would be harmful to the setting of the listed buildings, to the character of the Registered Gardens and the wider Torquay Harbour Conservation Area contrary to Policies HE1 and SS10 of the Torbay Local Plan 2012-2030 and Policies TT2 and TE2 of the Torquay Neighbourhood Plan.

#### Lighting condition

02. The development shall at all times accord with the approved lighting scheme. The development shall only be lit during the approved operational hours.

Reason: To ensure that disturbance to residents who overlook the site is minimised and to protect the wider visual character of the area, in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

#### Operating hours

03. The observation wheel and the associated ancillary catering facilities shall only operate, and be lit, between the hours of 10.00 and 22.00 hours daily.

Reason: To ensure that disturbance to residents who overlook the site is minimised in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

#### Operational management

04. Prior to the wheel arriving on site a traffic and operational management plan and details of the operational control during construction and dismantling, which shall include due consideration and information regarding the protection afforded adjacent trees during construction, operations and its removal, shall be submitted to and approved by the Local Planning Authority. The operation of moving the wheel onto and off the site shall accord with the approved details.

Reason: In order to protect the structural integrity of the site, in accordance with Policies C4, HE1 and SS10 of the Torbay Local Plan 2012-2030 and Policy TT2 of the Torquay Neighbourhood Plan.

### **Informative(s)**

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**

#### **Development Plan Relevant Policies**

DE1 - Design  
DE3 - Development Amenity  
TC1 - Town Centres  
TC5 - Evening and night time economy  
TO1 - Tourism, events and culture  
TA2 - Development access  
HE1 - Listed Buildings  
ER1 - Flood Risk  
SS4 - The economy and employment

SS10 - Conservation and Historic Environment  
SDT2 - Torquay town centre and harbour  
C4 - Trees, hedgerows and natural landscape  
NC1 - Biodiversity and Geodiversity\_

TT2 - Change of Use in Conservation Areas and Listed Buildings  
TE2 – Local Green Spaces  
TS4 - Support for Brownfield and Greenfield development  
TH8 - Established architecture  
TE5 - Protected species habitats and biodiversity