

Friday, 9 July 2021

PLANNING COMMITTEE

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

Monday, 19 July 2021

commencing at **4.00 pm**

The meeting will be held in the Meadfoot Room - Town Hall

Members of the Committee

Councillor Pentney (Chairman)

Councillor Dart

Councillor Jacqueline Thomas

Councillor Dudley

Councillor Ellery

Councillor Hill

Councillor Loxton

Councillor Kennedy

Councillor Foster

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, Town Hall, Castle Circus, Torquay, TQ1 3DR

Email: governance.support@torbay.gov.uk - www.torbay.gov.uk

ADJOURNED PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **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.)

3. **Urgent Items**

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

4. **Cherry Trees, 142 Newton Road, Torquay, TQ2 7AD, P/2020/0866**

(Pages 4 - 19)

Alterations and extensions to existing dwelling to form five residential flats. Alterations include the formation of a two storey side extension over existing garage, the enlargement of a rear dormer (revised plans received on 14.04.2021).

5. **Mayfield School, Moor Lane, Torquay, TQ2 8NH (P/2021/0357)**

(Pages 20 - 40)

Formation of new staff and teaching block.

6. **Land Off Orchard Way, Edginswell Torquay (P/2021/0123)**

(Pages 41 - 61)

Enabling works for future development. Extension of Orchard Way with associated retaining walls and landscaping.

7. **Land to the southeast of 39 Wall Park Road, Brixham (P/2019/0594)**

(Pages 62 - 92)

Outline application for 3 dwelling houses and associated

improvements to the private access lane, with all matters reserved.

8. 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 before 11 am on the day of the meeting.

TORBAY COUNCIL

Application Site Address	Cherry Trees 142 Newton Road Torquay TQ2 7AD
Proposal	Alterations and extensions to existing dwelling to form five residential flats. Alterations include the formation of a two storey side extension over existing garage, the enlargement of a rear dormer (revised plans received on 14.04.2021)
Application Number	P/2020/0866
Applicant	Mr Maddock
Agent	Box Architecture
Date Application Valid	28.09.2020
Decision Due date	23.11.2020
Extension of Time Date	21.12.2020 an extension of the determination period until 18 th June 2021 has been agreed
Recommendation	Approval subject to: 1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant 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 Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.
Reason for Referral to Planning Committee	Councillors requested consideration by Committee as a result of objections received over the height of the building, proximity to the boundaries and loss of light.
Planning Case Officer	June Pagdin

Site Location Plan



Site Details

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

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

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

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

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

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

Description of Development

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

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

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

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

Pre-Application Enquiry

None.

Relevant Planning Policy Context

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

Development Plan

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

- The Torquay Neighbourhood Plan ("The Neighbourhood Plan")

Material Considerations

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

Relevant Planning History

P/2011/0527 – Formation of single storey extension at rear. Approved 04.07.2011.

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

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

Summary of Representations

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

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

One neutral comment was received:

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

Sound insulation between residential flats is subject to control through Building Regulations matter and not a material planning consideration.

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

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

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

Summary of Consultation Responses

Torquay Neighbourhood Plan Forum:

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

Highways

No objection.

Arboriculture

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

Community Safety

No objection subject to condition requiring a Construction Management Plan.

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of development

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

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

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

2. Visual Impact

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. Paragraph 130 of the NPPF states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE5 of the Local Plan states that domestic extensions will be assessed against their impact on the character or appearance of the original property, neighbouring properties, and the street scene. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

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

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

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

3. Impact on Residential Amenity

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

Future occupiers

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

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

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

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

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

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

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

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

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

Neighbouring occupiers

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

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

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

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

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

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

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

4. Impact on Highways

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

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

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

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

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

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

5. Flood Risk and Drainage

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

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

6. Ecology

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

7. Low Carbon Development

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

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

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

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

8. Human Rights and Equalities Issues

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

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

9. Local Finance Considerations

S106: Not Applicable

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

Planning Balance

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

Conclusions and Reasons for Decision

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

Officer Recommendation

That planning permission be granted, subject to:

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

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

Conditions

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

The plan should include, but not be limited to:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11. Tree Protection for street tree

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

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

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

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

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

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

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

Relevant Policies

Torbay Local Plan:

H1 – Applications for New Homes

DE1 - Design

DE3 – Development amenity

DE5 – Domestic Extensions

TA2 - Development access

TA3 - Parking requirements

ER1 - Flood Risk

NC1 - Biodiversity and Geodiversity

C4 – Trees, hedgerows and natural landscape features

SS3 – Presumption in favour of sustainable development

SS14- Low carbon development and adaptation to climate change

ES1 - Renewable and low-carbon infrastructure

Torquay Neighbourhood Plan:

TH8 - Established architecture

THW4 – Outside Space Provision

TH9 - Parking Facilities

TORBAY COUNCIL

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

Location Plan:



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SITE LOCATION PLAN
scale 1:1250

Site Details

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

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

Description of Development

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

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

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

Pre-Application Enquiry

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

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

Relevant Planning Policy Context

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

Development Plan

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

Material Considerations

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

Relevant Planning History

P/2011/1319: Alterations and formation of four classroom extension and related facilities with plant and stores in undercroft. Approved 20/02/2012.

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

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

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

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

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

Summary of Representations

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

Concerns raised include:

- Traffic and access

Comments include:

- Provides educational facilities

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

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No response received.

Sport England:

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

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

https://www.sportengland.org/how-we-can-help/facilities-and-planning/planning-for-sport#planning_applications

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

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

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

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

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

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

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

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

Torbay Council's Senior Strategy and Project Planning Officer:

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

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

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

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

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

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

Torbay Council’s Senior Environmental Health Officer:

No objections subject to the inclusion of the following condition:

Construction Management Plan:

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

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

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

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

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

Torbay Council's Drainage Engineer:

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

Torbay Council's Senior Tree and Landscape Officer:

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

Torbay Council's Highways Engineer:

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

Planning Officer Assessment

Key Issues/Material Considerations

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

1. Principle of Development

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

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

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

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

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

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

2. Impact on Visual Character

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and

quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

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

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

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

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

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

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

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

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

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

In terms of landscape impact it is relevant to consider the cumulative effects of the existing buildings within the school site. The Council's Senior Strategy and Project

Delivery Planning Officer has stated that the ULPA was designated to protect the woodland and backdrop associated with Brunel Woods. It is considered that the application site is visible from Moor Lane and other public realm vantage points. However, the proposal would provide a continuation of the existing built form on site and would not protrude beyond the existing building line. It is considered that the proposed development would not have a significant adverse impact on the special qualities and characteristics of the ULPA. It is considered that it is possible to develop the site for the type and quantum of development as set out in the proposal without having an unacceptable adverse impact on the ULPA in terms of the proposal not undermining the value of the ULPA as an open or landscaped feature within the urban area and making a positive contribution to the urban environment and enhance the landscape character of the ULPA, subject to a suitable landscaping scheme.

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

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

3. Impact on Residential Amenity

Paragraph 127 of the NPPF guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity. The Neighbourhood Plan is largely silent on the matter of amenity.

The site has Steps Lane and residential properties to the west, existing school buildings and beyond that further residential properties to the north and east, and Moor Lane and Steps Cross Park to the south. The representations received do not raise concerns regarding residential amenity. The Council's Senior Environmental Health Officer raises no objection to the proposal, subject to a planning condition to secure a Construction Method Statement. It is considered that there will be limited impact on adjacent residential properties given the separation distances.

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

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

4. Impact on Highways

Policy DE3 of the Local Plan specifies that new development proposals should have satisfactory provision for off-road motor vehicle parking, bicycles and storage of containers for waste and recycling. Policy TA2 of the Local Plan states all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 of the Local Plan details that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. The Neighbourhood Plan is largely silent on the matter of parking in relation to non-housing development.

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

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

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

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

5. Impact on Ecology and Trees

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

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

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

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

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

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

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

6. Impact on Flood Risk and Drainage

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

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

7. Low Carbon Development

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

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

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

Sustainability

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

The Economic Role

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

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

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

The Social Role

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

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

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

The Environmental Role

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

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

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

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

Sustainability Conclusion

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

Statement on Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106: Not applicable.

CIL: Not applicable.

EIA/HRA

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

HRA: Not applicable.

Planning Balance

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

Conclusions and Reasons for Decision

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

Officer Recommendation

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

Conditions

Construction Method Statement

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

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

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

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

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

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

Removal of Vegetation

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

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

Ecology Report

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

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

Flood Risk Assessment

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

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

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

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

Materials

Prior to their installation details and samples of the proposed exterior materials including the cladding wall finish, windows, doors, eaves, fascias and rainwater goods shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be constructed in accordance with the approved details, and shall be retained as such for the life of the development.

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

Landscaping

Prior to development continuing above slab level a scheme of hard and soft landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing comprised within the approved scheme shall be carried out in the first planting season following the completion of the development and any trees or plants which within a period of 5 years from completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of a similar size and the

same species. The approved hard landscaping details shall be provided within 8 weeks of the development being brought into use, and shall be retained for the life of the development.

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

Travel Plan

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

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

Informative(s)

1. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
2. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.
3. Responsibilities of the applicant / developer:

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

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

Relevant Policies

C4 – Trees, Hedgerows and Natural Landscape Features

C5 – Urban Landscape Protection Areas

DE1 – Design

DE3 – Development Amenity

ER1 – Flood Risk

ER2 – Water Management

NC1 – Biodiversity and Geodiversity

SC3 – Education, Skills and Local Labour

SC5 – Child Poverty

SS3 – Presumption in Favour of Sustainable Development

SS10 – Conservation and the Historic Environment

SS11 – Sustainable Communities

SS14 – Low Carbon Development and Adaptation to Climate Change

TA2 – Development Access

TA3 – Parking Requirements

TH8 – Established Architecture

TORBAY COUNCIL

Application Site Address	Land Off Orchard Way, Edginswell Torquay
Proposal	Enabling works for future development. Extension of Orchard Way with associated retaining walls and landscaping.
Application Number	P/2021/0123
Applicant	Torbay Council
Agent	KTA Architects Ltd
Date Application Valid	17.03.2021
Decision Due Date	16.06.2021
Extension of Time Date	16.07.2021
Recommendation	<p>Approval: Subject to;</p> <p>The resolution of the relationship of the southern crib wall and the Root Protection Area of tree OT1, to the satisfaction of officers;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Assistant 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 Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Major Development (size of site).
Planning Case Officer	Scott Jones



Site Details

The site comprises of 2.4 hectares of unkempt grass/scrubland to the west of Orchard Way and the existing commercial buildings that form Edginswell Business Park. There is a tree and scrub belt along the south-western boundary of the site adjacent to residential properties that sit off Edginswell Lane. The site slopes from south-west to north-east with the south-western corner being the high point of the site. There is a drop of approximately 15m across the site. Across the remaining borders to the north-east there is a nearby watercourse and rail line, before the land rises again to Riviera Way, and to the north-west lies Hamlyn Way, with a public right of way on the intervening strip of land that connects Edginswell Lane with Torquay Road to the North. Orchard Way presently terminates at the western edge of the site.

Regarding further context the site sits within the Edginswell Future Growth Area, as designated within the Torbay Local Plan, and is within the adopted 'Torquay Gateway (Edginswell)' Masterplan area, which envisages commercial uses on the land. There are also a number of listed building within 100m to the south and east of the site, although none directly border the site. In terms of further heritage interests there is an entry recorded on the Historic Environment Record for a post-medieval 'catch meadow' within the site. Other notable matters include an adjacent watercourse to the north which is an identified flood risk area and the adjacent land around the watercourse and railway line is part of a broader linear identified Local Nature Reserve

and Urban Landscape Protection Area. The site is also within the identified Landscape Connectivity Zone associated with the Greater Horseshoe Bats (South Hams SAC).

In terms of some further context the site is part of the wider envisaged Edginswell Business Park, as outlined within the historic major 'hybrid' (detailed and outline) proposals approved and partly implemented on adjacent land to the east under planning reference P/2007/1030 (as amended), which proposed commercial buildings/uses on this part of the site.

Description of Development

The application is for groundworks to alter the land levels of the site in preparation for future potential uses, together with the extension of the current highway into the site.

Regarding the groundworks the proposals are principally a 'cut-and-fill' scheme to lower the southern half of the site and raise the northern half of the site, resulting in two principal plateaus either side of the proposed road extension.

At the south-west border the lowering of the ground levels includes the proposal for a crib wall to retain the engineered drop in level. The retaining structure will be between 1.5m and 5m along the south-west border above which there is a 5m landscaping strip proposed featuring specimen tree species, smaller tree species and shrubs on the high side of the structure. The wall also turns north towards the western end adjacent to the existing Public Right of Way, grading down from around 3.5m to the natural level.

A further retaining structure is proposed more centrally within the site in the form of a concrete retaining wall. This will partly retain the proposed highway but also navigate the drop in level from the upper to the lower plateau. The 'L' shaped structure is approximately 1.5m-2m high at either end but raises to a height of around 4m within its length.

At the northern edge of the site a graded earth bank is the third engineered structure being proposed, which is proposed to retain the 'fill' on the lower half of the site and the subsequent drop in level to the adjacent land. The earth bank will traverse a drop of around 4.5m.

The proposed highway extension consists of a 70m extension of the existing carriageway westwards into the site, with a 2m wide footway on the northern side and a 3m wide foot/cycleway on the southern side. There is a proposed 'stub' access junction proposed to the southern side approximately halfway along the proposed road.

Pre-Application Enquiry

None.

Relevant Planning Policy Context

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on

local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following development plan policies and material considerations are relevant to this application:

Development Plan

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

Major 'Hybrid' Application: P/2007/1743: Mixed Use Development Comprising Business Use Class B1, Car Showroom, Retail Warehouse And Residential And Public House/Restaurant (Class A3/A4) With Associated Highway Works And Car Parking.(In Outline). Approved.

Planning Application: P/2009/0055: Amendments to planning permission (app number P/2007/1743/MOA) comprising a draught lobby to main entrance and additional fire door at ground floor level to office building O2. Approved.

Minor Material Amendment (Section73 Application): P/2016/0955: Variation of condition P1 of P/2007/1743 - to allow amendments to the appearance, footprint and internal layout of one car showroom and alterations to the layout of the parking and car display area. This permission relates solely to those elements granted consent and have extant detailed planning permission under reference P/2007/1743 (two car showrooms and one retail unit). Approved.

Summary of Representations

2 Objections. Key issues as follows:

- Loss of the historic 10m landscape buffer to properties
- Amenity impact on neighbours from the loss of the buffer
- Visual impact of the loss of the buffer
- Lack of conformity with the Masterplan
- Potential impact on stability

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No comments.

Natural England:

No objection. Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes.

Torbay Council's Ecology Advisor:

The proposals are unlikely to have a significant effect upon greater horseshoe bats associated with the South Hams SAC.

In regard to habitat loss the site currently holds grassland and hedgerows and post development will result in a tree-lined planting strip and enhanced orchard area, both towards the southern border. Post development it is calculated that this represents a loss of 2.65 'habitat units' or a net loss of 28%. These 2.65 units will need to be provided offsite.

In terms of broader species works should be undertaken outside of the nesting season to protect birds and the reptile method statement should be followed.

Propose conditions are necessary in regard to lighting, habitat mitigation, construction measures, landscape creation and management, times of clearance, accordance with the submitted ecology reports, and repeat badger surveys.

Highway Authority:

No objection. It is advised that any future development proposals should be supported by a Transport Assessment / Statement to accompany the planning submission, which will be subject to review by the Highway Authority before a recommendation can be made. The applicant will also be required to ensure that this is inclusive of identifying pedestrian and vehicle visibility splays from the new proposed accesses, as well as undertaking a swept path analysis exercise, to ensure these are designed to an adoptable standard.

Torbay Council Strategic Planning / Transport:

It is noted that the application includes additional highway towards the west of the site. Although detail could wait for a future full planning application it is recommended that any future proposals provide connectivity between Orchard Way and the path running along the north west boundary of the site. This should be accessible to both pedestrians and cyclists.

With regards to the path along the north west boundary and the proposed reinforced embankment development will need to ensure a safe and suitable barrier is provided to protect against falls from height given the extent of the reinforced embankment which appears to be up to 3.95m at its highest point.

The masterplan also shows a route from Orchard Way through or to the south east of plot 1 linking to the space between plot 1 and the watercourse/railway. This is not indicated on these plans and should also be sought as part of wider connectivity improvements, as should the space at the rear, through and around this site for use by the wider community.

It is important that the route, including the additional highway shown, is built to adoptable standards and (ideally) adopted by the Council for safeguarding purposes.

This could be secured through condition. At the very least a footpath and cycle route connection should be dedicated as such and preserved and appropriately maintained as such in perpetuity.

Torbay Council Drainage Engineer:

Following the submission of further information, including a site specific flood risk assessment and surface water drainage design for the above planning application, providing the surface water drainage is constructed in accordance with the submitted design, there is no objections on drainage grounds to planning permission being granted.

Torbay Council (TDA) Engineer:

It is understood work is in hand to ascertain geotechnical characteristics at this location among others, with which to inform the detail of the current indicative arrangements. Suggest covering any boundary uncertainty by attaching a planning condition similar to the following if granted permission;

‘No development of the proposed boundary ‘crib’ or other retaining walls shall take place without geotechnical investigation and reporting by a qualified geotechnical consultant. Conclusions and recommendations arising from the same should be recognised and adopted by the developer in the proposal and detailing of the installed retaining structure, to include construction and in-service phases.’

Torbay Council’s Senior Tree and Landscape Officer:

The proposed landscaping was agreed at pre-app stage to mitigate for the loss of the trees along the boundary - the trees to be removed are G1,G2, G3 G4, NT2 and NT3 to facilitate the enabling works.

It is recognised that the existing tree stock provides a landscape feature along the boundary with its appeal being on the group effect of the trees in the landscape. Except for G3 that has been afforded B category status the remainder of the trees to be removed are C category with a limited life expectancy.

The proposed landscape is a robust design using native trees and bolster planting within the orchard using local varieties. The landscape will provide a dense screen in the long term. The offset is that there will be short to medium term loss of trees in the landscape but owing to their categorisation they are not expected to usefully live beyond 20years.

The large off-site Ash, OT1, requires 20% of its root protection area to be removed to facilitate the ground levels required for any further development proposals. Although unlikely to structurally damage the tree there will be loss of physiological function from the severance of the fibrous and small diameter roots. As the report indicates OT1 is likely to succumb to Ash Dieback although there is no summary on its current level of infection. The age of the tree, its historic management (coppice) has led to a potentially ecologically valuable habitat along the tree line. Owing to the ecological potential of the tree and the current unknown infection level of the tree in respect of Ash Dieback it is deemed that adjustments are sought to the layout so the full root protection area of OT1 is recognised.

It is noted there is no LVIA present as part of the submission which would provide a broader context of the impact.

Torbay Council's Community Safety Officer:

Document 3467 'Construction Phase' contains the usual information asked for in a construction management plan regarding the control of noise and dust etc. However it is noted that they are suggesting the following hours:

"Construction hours will be from 7am to 7pm Monday to Friday, 7am to 1pm on Saturdays and closed on Sundays."

Recommend standard 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, are secured to limit local disturbance.

Devon County Council Archaeologist:

The proposal is in an area of archaeological interest relating to the medieval and post-medieval settlement of Edginswell. Groundworks are likely to expose and destroy archaeological features and finds relating to the settlement. The proposal area also contains the remains of part of a post-medieval water meadow system. However, the archaeological evidence is not, in my opinion, of such significance for me to recommend refusal of the application. Archaeological impacts can be satisfactorily mitigated by condition. Should any of the water meadow gullies survive, it may be appropriate to consider retaining them within any proposed landscaping and/or SUDS scheme.

Recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of any heritage assets with archaeological interest.

Environment Agency:

It is noted that the application is only for the enabling works and not for the development itself. The concrete retaining wall adjacent to Plot 1 looks like it is probably outside of the indicative flood zone, but it may be worth getting confirmation of this from the applicant and that there will be no development/land-raising within the indicative flood zone. However, a detailed FRA may need to accompany the detailed application for Plot 1 to show that the development can satisfy flood risk policy, i.e. that the development will be safe over its lifetime and not increase flood risk elsewhere.

Regarding the access the extended section appears to be located within flood zone 1. However, part of the existing access extends through flood zone 3 and therefore emergency evacuation of the site will be a consideration for you and the emergency planners with any future application for development of the site.

Provided that there is no development taking place within Flood Zone's 2 and 3 in the current application then we would have no further comments to make.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact, including heritage impacts
3. Residential Amenity
4. Highways and Movement
5. Ecology and Trees
6. Flood Risk and Drainage
7. Low Carbon Development, Climate Change and Waste Reduction

1. Principle of Development

The site has been historically linked with the adjacent business park, principally as it was part of the wider proposals in the historic major mixed-use scheme submitted and approved 14 years ago, which was implemented and partly built out. The land subject to this application was outlined to deliver a small number of business buildings/uses and a bulky goods retail unit within this historic application. The business uses associated with the historic 'hybrid' application have fallen away as no Reserved Matters were submitted within the appropriate time limit, but the retail unit sits as an extant permission over part of the site as it was approved in detail.

Notwithstanding that only part of the site still benefits from an extant planning permission the site is still clearly identified for commercial uses in the current Development Plan. In terms of the Local Plan the site is part of the Edginswell Future Growth Area (identified within Policy SS2) and is identified as an employment site within Policy SS5 (Employment space). There is also an adopted Masterplan relevant to the site and wider area (Edginswell) and this identifies the site as part of 'Edginswell Business Park'. The Masterplan aligns with Local Plan support for high quality business uses and purports that some form of mixed use may be suitable. The indicative layouts and commentary within the Masterplan are divergent to the historic scheme granted planning permission but there is consistency in terms of the land being part of the longer-term aspirations and within the 'boundary' of the business park. In terms of the more recent Neighbourhood Plan the site is again identified as an employment site (TJ1.10) and there is reference to the adopted Masterplan.

In terms of summing up matters of principle and planning policy, in the context of the Development Plan, there is consistency in terms of the land being identified for employment uses. The current engineering operations act as preparatory works for potential future commercial uses and in such circumstances are considered enabling operations that are linked to delivering potential future commercial uses, which are supported in terms of planning policy. As such the engineering works are considered aligned with the aspirations of the Development Plan in terms of principle when considered in the round.

The application, in terms of principle, is considered suitably aligned with the strategic and employment policies contained within the Development Plan, notably Policies SS2 and SS5 of the Torbay Local Plan and Policies TS2 and TJ1 of the Torquay Neighbourhood Plan, and guidance contained within the Adopted Torquay Gateway (Edginswell) Masterplan.

2. Design and Visual Impact, including heritage impacts

The principal considerations are the visual impact of the loss of the existing habitat and site character, which is principally scrub and grassland with sporadic border trees, and the visual impact of the proposed works, this being the regraded land and the retaining features created within.

Paragraph 124 of the National Planning Policy Framework (NPPF) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'.

There is no landscape designation over the land in terms of the Development Plan, but it is noted that the site forms part of the identified landscape area of a secluded Valley (3B Edginswell Valley) in the Torquay Landscape Character Assessment (2010). The wider area is identified as moderately sensitive with a management strategy to conserve. It is unclear whether this character assessment, which is dated 2010, reflected the local change in context from the consented mixed-use scheme, which appears to have commenced around 2009. There is no notable comment however there is notation that if development were to be permitted in this area it would be well contained from the wider area by the valley topography but would lead to the loss of an attractive and intimate local valley and detract from character of adjoining land. This suggests the assessment possibly pre-dated the build-out of the earlier phase of the business park but was possibly aware that development was forthcoming/likely.

In terms of design and visual impact is it practical to consider that part of the site benefits from an extent permission to build a bulky goods unit and that there is broad policy support through the Development Plan to deliver employment across the site. The inherent loss of the open features is hence not particularly significant, but more how the proposals influence the design and visual impact of future development.

In terms of the core of the site the proposed plateaus present a form of development that is similar to the historic proposals. This will present a stepped form of land that responds to the fall in land levels towards the valley floor to the north. The proposed land levels do not inherently present a matter of concern in terms of how it would influence the design and visual impact of future development.

In terms of the retaining features the northern graded bank, which is closest to the watercourse and rail line, is considered an acceptable form of engineering within what is principally an external facing element of the development. The solution provides landscape potential and would sit comfortably as a visual feature from further afield and from close proximity, should the adjacent water meadow secure the access and open walking route envisaged within the original mixed-use application. In terms of the central concrete retaining wall there is clear expectations that the wall will become an internal facing service yard based on the extant retail permission and historic layouts. Its impact from mid-distanced views from the north would appear only temporary in nature and limited. In terms of the southern-most retaining element this

appears the most sensitive element of the scheme and has raised some public concern in terms of how its form and location would constrain the landscape potential to visually separate the commercial element from the more rural residential character of Edginswell Lane. In terms of the detail the crib wall itself will be inward facing and post-development (of commercial uses) is unlikely to be a prominent feature within the public realm. In terms of the landscaped bank above this feature a 5m tree and shrub border is proposed, which would include feature oak and pine specimens along its length. There is local concern that the linear feature is not sufficient and is not as robust as the historic '10m landscape buffer' proposed via the historic mixed-use development. The Council's Landscape and Arboricultural Officer has considered the proposal and concluded that the proposed landscaping is a robust design and will provide a dense screen in the long term, whilst recognising that although the tree removal will present a short to medium term loss of trees in the landscape these have a short (20 years) expectancy and the proposals will present a longer-lived feature. Notwithstanding the concerns raised within representations when considering the conclusions of the specialist officer the detail of the southern-most wall and its associated landscaping is considered acceptable in terms of its landscape and visual impact.

Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context. This conclusion has taken into account the public representations and specialist advice in terms of the robustness of the landscaping.

Regarding heritage assets the scale and form of the engineering proposals will not impact the setting of nearby listed buildings to the south. The proposal is hence considered acceptable having considered 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 listed buildings and their settings.

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

The proposed development, post-construction, will not impact the amenity of neighbouring occupiers, which principally sit to the south of the site off Edginswell Lane, as the groundworks and retaining structures will not result in any form of loss of privacy, light, outlook etc. As a precursor to potential future development subsequent proposals would offer scope to consider the impact of buildings and uses on neighbouring occupiers. Notwithstanding the above conclusion the construction phase does have the potential to effect neighbours, principally through noise, dust and general disturbance during construction. The application is accompanied by construction phase information, which has been reviewed by Community Safety and considered acceptable in terms of managing most of the processes during

construction that may impact neighbours. One point of concern is the proposed construction hours and it is recommended that notwithstanding the documents detail should be conditioned as being contained within the hours of 0800 and 1800 Monday to Friday and between 0900 and 1300 on Saturdays, with no working on Sundays or bank holidays. Regarding further construction and post-construction matters there has been a concern raised in public representation regarding land stability. The Council's Engineer has considered the matter of groundworks close to residential plots and has recommend that a planning condition is attached to secure a level of detail and understanding on the engineering solution beyond the current level.

With conditions to secure appropriate working hours during construction and to secure engineering detail to ensure that their will be no impact upon adjacent land in terms of stability the proposals are acceptable in terms of any impact upon the amenity of adjacent occupiers, in accordance with Policy DE3 of the Torbay Local Plan.

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; and c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree (Para 108). It also furthers (Para 109) 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 seeks to extend the existing highway (Orchard Way) approximately 70m westwards into the site and aside to this the development is seeking only preparatory works for potential futures uses. Due to the form of development the key issue is principally whether the highway extension is a suitable design for the future commercial context. The Highway Authority have confirmed that they do not object to the proposals following receipt of this additional information through the course of the application process. Considering the professional advice received from the Highway Authority the proposal is considered acceptable in terms of the highway works proposed.

Regarding associated matters strategic transport concerns have been discussed by Officers regarding the safety of users of the adjacent Public Right of Way running along the north west edge of the site, due to a subsequent drop in level created by the proposed retaining structure, together with concerns on future connectivity regarding promoting sustainable modes of travel. In regard to the safety issue it is considered reasonable to secure an appropriately formed barrier on top of, or adjacent to, the proposed crib wall that will run along the north west section abutting the Public Right of Way via a planning condition. An appropriately worded condition is proposed within the schedule of conditions at the end of this report. Regarding future connectivity this is principally a matter that is relevant to future detailed development proposals for the site. The applicant has been advised of the policy desire to promote sustainable forms

of transport and improve/provide good connectivity through development, including the masterplans indicative expectation of a foot/cycleway connection to the north west.

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 (Para 109), the proposal is considered acceptable on highway and movements grounds, and in accordance with the Policies DE1 and TA2 of The Local 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).

Regarding ecology matters the site is largely scrub grassland and occasional trees and in terms of notable policy context it is located within the Landscape Connectivity Zone associated with the Greater Horseshoe Bat (South Hams SAC). In terms of species and habitats it is concluded that there are no constraints that should impede the grant of planning permission in terms of ecology considerations. The site is not particularly sensitive in terms of protected species and there are several proposed planning conditions to duly manage and mitigate the impact of the works on reptiles, birds etc and to secure the proposed replacement planting. These conditions are listed in the schedule at the end of this report. The sensitivity of the site and impact of the development on the Greater Horseshoe Bat has been assessed and it has been concluded that the site is not particularly sensitive and there would be no Likely Significant Effect. Natural England have commented on the application and raise no objection.

Regarding biodiversity the loss of the existing habitat has been assessed and notwithstanding the tree planting adjacent to the south west border and the enhancement meadow/orchard within the south west corner, it has been concluded that there would be a net loss of 2.65 'habitat units' or a net loss of 28%. To mitigate this loss compensatory habitat would need to be provided/enhanced offsite and a planning condition is proposed to secure this in line with advice provided by the Council's ecology provider.

Regarding trees there is proposed removal of a handful of specimens along the south west boundary to facilitate the enabling works. The Council's Arboricultural Officer has reviewed the context and has recognised that the existing tree stock provides a landscape feature along the boundary with an appeal of its group effect in the

landscape. In this context the proposed replacement planting is considered acceptable and is deemed a robust design using native trees, which will provide a dense screen in the long term. It is recognised that there will be short to medium term loss of trees in the landscape, but this is considered an acceptable impact when considering the life expectancy of the current trees, which are not expected to be long-lasting. There is one element that is considered to require some further consideration, which is the incursion of the proposed wall into the Root Protection Area of an offsite Ash tree (OT1). The advice of the Council's Arboricultural Officer is that on the current information although the work is unlikely to structurally damage the tree the wall should be moved to respect the full Root Protection Area. This advice is subject to the receipt of further information on the health of the tree and its ecological value, which has been requested from the applicant. As matters stand the officer recommendation is that the scheme is amended unless further information on the health and likely impact on the tree is submitted that amends this professional advice.

Subject to resolution of the Root Protection Area of tree referenced OT1, having considered the submitted assessments, and subject to conditions to secure the tree planting, offsite mitigation, and broader ecology matters, as detailed within the schedule of conditions within this report, for the reasons stated above the proposals are 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 proposed groundworks will largely retain the site as a natural permeable surface, with the principal surface change being the relatively moderate extension to the highway centrally within the site.

The application is supported by a site specific flood risk assessment that seeks to demonstrate that the development would not increase the risk of flooding and accord with policy advice contained within the Development Plan and the Environment Agency's Critical Drainage Area Advice Note for Torbay.

In terms of detail it is proposed that the surface water arising from the proposed highway will be managed via the local highway drainage network, discharged into this system at an attenuated rate equivalent to a greenfield run-off. As a point of note the existing highway drainage ultimately discharges into the nearby watercourse. The remainder of the site, which will remain unpaved, is to continue to discharge as per the existing situation re unmanaged natural infiltration. This presents a situation where the surface water disposal for the development plots will be confirmed when detailed proposals come forward for the sit, which is considered appropriate.

The Council's Drainage Engineer has considered the drainage proposals and, following the receipt of revised detail that overcomes certain issues on detail, 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 and advice contained

within the NPPF. A planning condition is recommended to ensure that the proposed management for the highway run-off is secured and maintained for the life of the development.

7. Low Carbon Development, Climate Change and Waste Reduction

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 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 supporting information submitted with the application does not explore the issue of low carbon development or climate change in any great detail. The absence of detail on these aspirations does not appear to be integral to the broader merits of the proposal as it is accepted that the engineering operations have limited scope to deliver low carbon development or positively influence climate change, and it would be future detailed proposals for the site that would be duly scrutinised on these policy aspirations. Regarding waste reduction goals again the supporting detail is not overly expressive of the design considerations however, notwithstanding this, there appears a broadly substantiable emphasis to the scheme in terms of seeking to secure functioning commercial levels on a sloping site through a cut-and-fill process that limits the reliance on taking soil/waste offsite to potential landfill, which would be unsustainable in terms of transport needs and ultimately the creation of waste.

The development is, for the reasons above, considered suitable for approval, in accordance with Policy SS14 and W1 of the Torbay Local Plan, with further expected scrutiny of low carbon and energy proposals reserved for future proposals that may come forward over the land.

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

Job creation is a driver of economic growth and there would be economic benefits should the preparatory works help facilitate the delivery of commercial development on a site that has been long earmarked for such purposes. Aside this more immediately the preparatory works will provide economic benefits to the construction industry. 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 is whether it would help deliver job opportunities in the local area. Initially the construction phase will provide activity and employment opportunities and longer term the preparation of the site can only positively influence the attractiveness of the site for future development proposals, which would present the key benefit in term of employment opportunities for local residents. These short and longer terms benefits 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 within this report.

The environmental benefits are considered neutral, with the form of development and planning conditions principally aligned with mitigating environmental impacts that would naturally be linked to developing (or in this case preparing for development) greenfield sites. 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

CIL

Not Applicable.

S106

Not Applicable.

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 economic growth would produce a positive impact overall and help with the delivery of detailed commercial proposals for a long-identified site.

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; 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;

The resolution of the relationship of the southern crib wall and the Root Protection Area of tree OT1, to the satisfaction of officers;

The conditions as outlined below with the final drafting of conditions delegated to the Assistant 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 Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

Conditions

Hours of construction

Notwithstanding the submitted detail hours of operation throughout the construction phase shall be 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 local amenity in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

WSI (PC)

No development shall take place until the developer has secured the implementation of a programme of 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, or such other details as may be subsequently 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 199 of the National Planning Policy Framework (2019), that an appropriate record is made of archaeological evidence that may be affected by the development. This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

Structural details (PI)

Prior to commencement of works to build the proposed boundary 'crib' or other retaining walls details of the structural assessment and design of these structures shall be submitted to and approved in writing by the Local Planning Authority. The details shall be accompanied by evidence of a supporting geotechnical investigation and reporting by a qualified geotechnical consultant and the conclusions and recommendations arising from the same should be recognised and adopted within any proposed design. The development shall proceed in full accordance with the approved details.

Reason: To secure an appropriate and safe form for development and to protect highway safety and local amenity, in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

Safety Barrier

Prior to the installation of the retaining structure along the north west boundary adjacent to the Public Right of Way details of a safe and suitable barrier to run along this retained boundary shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved detail and the approved barrier shall be provided within 8 weeks of the practical completion of the related retaining structure unless an alternative timetable has been agreed in writing with the Local Planning Authority

Reason: To secure adequate safety features are provided, in accordance with Policies DE1, DE3 and TA2 of the Torbay Local Plan 2012-2030

Construction Method Statement

The development shall proceed in full accordance with the submitted 'Construction Phase Information for the Engineering Works' (Document Reference 3467 – Orchard Way, Edginswell. Torquay), unless otherwise detailed in conditions pursuant to this notice.

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

Tree Protection measures PC

Prior to the commencement of development a Tree Protection Plan and an Arboricultural Method Statement (AMS) shall be submitted to and approved in writing by the Local Planning Authority. The approved detail shall be adhered to throughout the construction phase of the development.

Reason: In order to ensure against harm to mature trees within the vicinity of the development either directly or to their rooting system, in accordance with Policy C4 of the Torbay Local Plan 2012-2030. These details are required prior to commencement to ensure protection measures are in place prior to potential harmful construction works commencing on site.

Highways Standards

Construction of the internal roads and footpaths within the internal layout shall be in accordance with the Torbay Highways Design Guide for new developments.

Reason: To ensure highway safety is not impaired, in accordance with Policies TA1, TA2 and DE1 of the Torbay Local Plan 2012-2030.

Ecology 1 - Lighting (PC)

Prior to the commencement of development a detailed Lighting Strategy shall be submitted to and agreed in writing by the Local Planning Authority. The Strategy shall seek to 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 has been implemented, and shall include details such as the following: artificial lighting associated with public realm lighting and internal and external lighting associated with any proposed buildings. The development shall proceed in full accordance with the approved detail.

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. This is required pre-commencement to ensure protected species are not unduly impacted.

Ecology 2 - In accordance with the EIA

Development shall commence and proceed in accordance with the actions set out in the Ecological Impact Assessment (GE Consulting, January 2021) and the Shadow Habitats Regulations Assessment (GE Consulting, March 2021).

Reason: To secure an acceptable form of development in accordance with Policies SS8, SS9 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Ecology 3 - CEMP (PC)

Prior to the commencement of development a Construction and Environmental Management Plan, which will include details of environmental protection throughout

the construction phase, shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed in full accordance with the approved details.

Reason: To secure an acceptable form of development in accordance with Policies SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF. This is required pre-commencement to ensure important features and protected species are not unduly impacted.

Ecology 4 - LEMP

Within 6 calendar months of the commencement of development a Landscape and Ecological Management Plan, which shall include details relating to habitat creation, species specification and management, and timing of provision, shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be fully implemented.

Reason: To secure an acceptable form of development in accordance with Policies SS8, SS9, DE1, C4 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

Ecology 5 - Habitat mitigation (PC)

Prior to the commencement of development, which shall include operations consisting of site clearance including clearance of vegetation, demolition work, archaeological investigations, investigations for the purpose of assessing ground conditions, remedial work in respect of any contamination or other adverse ground conditions, diversion and laying of services, erection of any temporary means of enclosure, the erection of a site office, the creation of a site compound and/or the creation of temporary means of access, a Compensatory Habitat Scheme appropriate to compensate for a Biodiversity Impact Assessment score of -2.65 Biodiversity Units shall have been submitted to and approved in writing by the Local Planning Authority. The compensatory habitat secured by the scheme will be functional within 12 months of commencement of development and be managed for a minimum of 30 years.

Reason: To secure an acceptable form of development in accordance with Policies SS8, SS9 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF. This is required pre-commencement to ensure that necessary mitigation is secured prior to operations.

Ecology 6 – Badgers (PC)

Prior to the commencement of development, including all forms of site preparation including scrub clearance, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority. The development shall proceed in full accordance with the approved detail.

Reason: To secure an acceptable form of development in accordance with Policies SS8 and NC1 of the Torbay Local Plan 2012-2030, Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF. This is required pre-commencement to ensure protected species are not unduly impacted.

Ecology 7 - Vegetation Clearance

No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.

Reason: To ensure due protection is afforded wildlife, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan and advice contained within the NPPF

Landscaping

The proposed landscaping shall be implemented in full within the first available planting season following substantive completion of the development hereby approved, unless otherwise submitted to and agreed in writing by the Local Planning Authority.

In the event of failure of any trees/plants, planted in accordance with the approved scheme, to become established and to prosper for a period of ten years from the date of planting (or following replacement), such trees/plants shall be replaced in the next planting season and maintained in accordance with an approved maintenance plan.

Reason: In the interests of visual amenity and in accordance with Policies DE1, SS8, SS9 and C4 of the Torbay Local Plan 2012-2030 and Policies TE5 and TH8 of the Torquay Neighbourhood Plan.

Drainage

The development shall proceed in full accordance with the submitted and approved Flood Risk Assessment and drainage plan. The drainage system shall then be maintained at all times thereafter to serve 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.

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

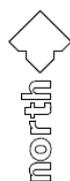
TA1 - Transport and accessibility
TA2 - Development access
C4 - Trees, hedgerows and natural landscape
DE1 - Design
DE3 - Development Amenity
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities
NC1 - Biodiversity and geodiversity

TS1 - Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH8 - Established architecture
TE5 - Protected species habitats and biodiversity

TORBAY COUNCIL

Application Site Address	Land to the southeast of 39 Wall Park Road, Brixham.
Proposal	Outline application for 3 dwelling houses and associated improvements to the private access lane, with all matters reserved.
Application Number	P/2019/0594
Applicant	Mr & Mrs King
Agent	Ian Hobson Designs
Date Application Valid	02.08.2019
Decision Due date	27.09.2019
Extension of Time Date	
Recommendation	Approval: Subject to the planning conditions outlined within the report, as updated, with the final drafting of conditions and the negotiation/completion of a S106 Legal Agreement to secure Affordable Housing Contributions and contributions to mitigate the recreational impacts of the development on Berry Head , as outlined within the report, and addressing any new material considerations that may come to light following Planning Committee, to be delegated to the Assistant Director of Planning, Housing and Climate Change.
Reason for Referral to Planning Committee	Certain issues have come to light as a result of the legal process to complete the planning obligation and an amendment of the original committee resolution is now required.
Planning Case Officer	Craig Davies

Location Plan



Update July 2021

On 14th September 2020 Planning Committee resolved to approve application P/2019/0594 subject to:

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

As part of the due diligence process to prepare the section 106 legal agreement, it has come to the attention of officers that the access lane from Wall Park Road to the site is not in the applicant's ownership, although they have a right of access. As a result, it

will not be possible to oblige the developer to set up a management company to ensure long-term maintenance of the lane. Officers are satisfied that an acceptable form of development will be achieved because a condition requires that a specification for the resurfacing of the lane is agreed prior to commencement of the development, and that the lane is made up to that specification within an agreed timescale.

Additionally, the ecologist who has advised the Council in this matter has had cause to review his advice and now considers that a 5m dark corridor will not be necessary because that hedge is not part of a transit route for Greater Horseshoe Bats. He remains of the opinion that hedgerows are an important feature in the landscape and would like to see the hedge on the south western boundary retained. Council officers consider that this request can be adequately secured by a landscaping condition.

The Council's legal officer has advised that, while legally acceptable, the proposed amendments are significantly different from those previously approved by the Committee and that, as a result, an amended resolution is required.

Officer Recommendation

Approval: Subject to;

1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;
2. The completion of a S106 Legal Agreement to secure off-site Affordable Housing Contributions in accordance with the adopted 'Planning Contributions and Affordable Housing' Supplementary Planning Document, and contributions to mitigate the recreational impacts of the development on Berry Head in accordance with the adopted 'Recreational Pressure on Berry Head' Supplementary Planning Document, on terms acceptable to Officers.

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

Conditions

Standard time condition:

That in the case of any reserved matter, an 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.

1. Reserved Matters condition

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

- (i) layout,
- (ii) scale,
- (iii) appearance; and
- (iv) landscaping.

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

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).

2. Lighting Assessment

All reserved matters applications shall include a Lighting Assessment detailing measures to minimise indirect impacts from lighting associated with the pre-construction, during construction, and operational activities, and demonstrating how the best practice (Bat Conservation Trust / Institution of Lighting Professionals, 2018) guidance has been implemented. This shall include details such as artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with private residence, and shall ensure that the hedgerow along the southwestern boundary of the site is kept to under 0.5lux. Once agreed in writing by the Local Planning Authority, the development shall proceed in strict accordance with the approved details.

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

3. Construction Environmental Management Plan – Biodiversity

All reserved matters applications shall include a Construction Environmental Management Plan (CEMP: Biodiversity), which shall have been prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) 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.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.

- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

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

4. Landscape and Ecological Management Plan (LEMP) or equivalent

All reserved matters applications shall include a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, which shall be submitted 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, and which, for the avoidance of doubt shall include the hedgerow on the south-western boundary of the site.
- b) Ecological trends and constraints on site that might influence management.
- c) A habitat phasing plan to ensure habitat is established and functional in advance of impacts.
- d) Aims and objectives of management.
- e) Appropriate management options for achieving aims and objectives. Noting the comments from Natural England with regards to preferred hedgerow management options.
- f) Prescriptions for management actions.
- g) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- h) Details of the body or organisation responsible for implementation of the plan.
- i) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding 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 and NC1 of the Torbay Local Plan 2012-2030.

5. Flood risk

As part of any reserved matters application a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in-line with the design parameters outlined within the submitted and approved Flood Risk Assessment, shall be submitted to and approved in writing by the Local Planning

Authority. The approved scheme shall be implemented in full prior to the first occupation of the development unless a phasing plan has been submitted to and approved by the Local Planning Authority, and shall be subsequently maintained thereafter.

Reason: To ensure that there are no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

6. Biodiversity enhancement measures

As part of any reserved matters relating to layout, appearance and landscaping proposed measures to enhance biodiversity, including the assessment principals that have informed the proposals, 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 development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

7. Construction method statement

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

- a) The parking of vehicles of site operatives and visitors.
- b) Loading and unloading of plant and materials.
- c) Storage of plant and materials used in constructing the development.
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- e) Wheel washing facilities.
- f) Measures to control the emission of dust and dirt during construction.
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

8. Access lane

Prior to the commencement of works on site, details of a scheme of improvements to the access lane serving the site, including (but not limited to) resurfacing, widening, and upgrading the surface water drainage system, where applicable, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme of improvements to the access lane shall be implemented in full in

accordance with a timetable that shall have been agreed in writing with the Local Planning Authority before development continues above slab level.

Reason: To ensure that the access is suitable, and in accordance with Policies TA2, ER1 and ER2 of the Torbay Local Plan 2012-2030 and Policy BH8 of the Brixham Peninsula Neighbourhood Plan.

9. Written Scheme of Investigation

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall have 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, or such other details as may be subsequently 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 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

10. Energy Efficiency and Low Carbon Development

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The details shall include the provision of electric vehicle charging facilities to all dwellings.

The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit.

Reason: In the interests of sustainable development and in accordance with Policy BH7 of the Brixham Peninsula Neighbourhood Plan, and Policies SS14 and TA3 (and Appendix F) of the Torbay Local Plan 2012-2030.

11. Existing Hedge Which is to be Retained

In this condition "hedge" means the existing hedge on the south-western boundary of the site; and paragraphs (a) and (b) below shall have effect until the expiration of 1 year from the date of the occupation of the final dwelling to be occupied on the site for its permitted use.

(a) The hedge shall not be cut down, uprooted or destroyed, nor shall the hedge be topped, lopped or cut back other than in accordance with the details agreed in the Landscape and Ecological Management Plan approved pursuant to condition 4 of this decision notice. Any hedgerow management approved shall be carried out in accordance with British Standard 3998 (Tree Work).

(b) If any part of the hedge is removed, uprooted or destroyed or dies, a replacement hedge or part thereof shall be planted at the same place and shall be of such size and species, and shall be planted at such time, as may be specified in writing by the local planning authority.

(c) The erection of fencing for the protection of the hedge shall be undertaken in accordance with the approved plans and particulars before any equipment,

machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this condition and the ground levels within those areas shall not be altered, nor shall any excavation be made, without the written consent of the local planning authority.

Reason: In the interests of biodiversity and visual amenity

Original Officer Report:

Site Details

The application site comprises part of the rectangular field to the southeast of Nos. 31-39 Wall Park Road, as well as the private access lane leading from Wall Park Road to Brixham Football Club. The land to the northeast and southeast of the field forms part of the Brixham Urban Fringe & AONB (Berry Head and Sharkham) Future Growth Area in terms of the Torbay Local Plan and comprises suburban residential development (the Bloor Homes development), much of which is complete. The application site lies in the northwestern half of the field with open space between the northwestern boundary of the site and the rear boundaries of Nos. 31-39 Wall Park Road, and open space between the southeastern boundary of the site and the residential development to the southeast. The southwestern boundary of the site is defined by an established hedgerow, with the land further to the southwest comprising Brixham Football Club.

The site is located within the South Devon Area of Outstanding Natural Beauty, the Greater Horseshoe Bat Sustenance Zone, and the Minerals Safeguarding Area.

Description of Development

The application seeks outline planning permission for 3 dwellings with associated access and highway improvements, with all matters reserved.

The application is accompanied by an indicative site layout plan that shows the potential layout of 3 detached dwelling houses on the site accessed from Wall Park Road via a private access lane. The site layout plan also shows a dark corridor along the southwestern boundary that would also provide a means of access to the southeastern half of the field (which is under separate ownership).

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 Brixham Peninsula Neighbourhood Plan*

Material Considerations:

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

Relevant Planning History

Pre-Applications

DE/2016/0444: Construction of 26 dwellings.

The written response to the pre-application enquiry concluded that “the residential development of the site has the potential to be acceptable subject to the submission of further information including but not limited to landscape and visual impact assessments, ecological surveys, details of how waste will be collected and surface water drainage information”.

Applications

P/2019/0139: Use of field as garden (certificate of lawfulness). Part allowed / part refused 15.04.2019.

P/2017/0227: Formation of 3 x 2 bedroom bungalows. Approved 19.07.2017.

P/2016/0395: Demolition of existing barn & erection of new dwelling. Approved 01.09.2016.

P/2011/0934: Incorporation of 1 acre of land behind house into boundary of house extending garden. Refused 22.11.2011.

Summary of Representations

2 letters of objection were received in which the following matters were raised:

- *The proposed access is inadequate and too narrow.*
- *Surface water flood risks relating to the access lane.*
- *Traffic congestion, access problems, and highway safety issues pertaining to the access lane.*
- *The need for measures to protect residential amenity (safety, access, noise) during construction works.*
- *Previous application for the use of the site as a garden was refused.*
- *The site is a greenfield site and should be retained.*
- *Access issues for refuse collection vehicles.*

1 neutral letter of representation was received in which the following matters were raised:

- *Surface water flood risks relating to the access lane.*
- *The access lane is narrow and has no passing places.*
- *Access and highway safety concerns.*

Summary of Consultation Responses

Brixham Town Council:

Brixham Town Council objected to the proposal for the following reasons:

“1. The proposed development is outside the settlement boundary and on a site rejected by the BPNP Housing Site Assessment.

“2. Although adjacent to the settlement boundary, the development does not satisfy the provisions set out in BPNP Policy BH9 – Exception Sites.

“3. The proposed development would be detrimental to the character and visual amenity of the AONB.

“4. The proposed options for mitigation of harm to important flora and fauna (specifically greater horseshoe bats and existing hedgerow) are not considered practicable, due to the Local Authority and other agencies lacking the resources to ensure that such mitigation is maintained in the long term.”

Devon County Council Ecologist:

Regarding Greater Horseshoe Bats, the consultee response stated:

“The site is within the Sustainance Zone of the Berry Head SSSI, associated with the South Hams SAC with respect to Greater Horseshoe Bats.

Ecology report indicates that the grassland to be lost to development does not provide suitable GHB foraging habitat. The grassland onsite offers negligible foraging opportunities for GHB s due to its amenity nature and species poor composition – this conclusion is considered valid.

Note that no bat surveys have been carried out, but we currently consider that impacts can be assessed without survey.

The only hedgerow onsite will be retained and clarification has been provided which confirms the existing vehicular access onto the site will remain.

This hedgerow is described as being ‘considered suitable for foraging/commuting bats and therefore it must be ensured that it is not illuminated’.

Further information has been provided by the ecologist in August 2020, and this confirms that whilst the hedgerow does provide suitable bat commuting/foraging habitat, it is not considered that this hedgerow is used by GHBs associated with the South Hams SAC.

The hedgerow is not considered an important landscape feature for bats from the South Hams SAC due to the urban nature of the surrounding land use and poor connectivity to both the Berry Head SSSI roost site, and the wider landscape to the south of the scheme. The Bloor Homes development to the direct south of the scheme has meant this hedgerow has become isolated from linkages into the wider countryside likely to be of highest value to GHBs.

By following the flow chart provided in the South Hams Special Area of Conservation (SAC) Greater Horseshoe Bats Habitats Regulations Assessment Guidance document (October 2019), it is not believed that the proposals will lead to the loss, damage or disturbance to a potential commuting route or foraging habitat used by GHBs associated with the South Hams SAC.

There is unlikely to be a likely significant effect on the South Hams SAC and a detailed HRA is not required.

No mitigation required with respect to GHBs as the further information provided by the ecologists confirms that the proposals will not have any impact upon GHBs using the South Hams SAC and the Berry Head roost site.”

Regarding recreational impacts on Berry Head, the consultee response stated: “Policy NC1 of the Torbay Local Plan states that “development contributions will be sought from development within the Brixham Peninsula (Policy SDB1) towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure.

This site falls within the Brixham Peninsula (Policy SDB1) and in accordance with the Supplementary Planning Document on Recreational Impacts on Berry Head, Torbay Council will be seeking S106 contributions of £95 per dwelling.

The HRA developed and agreed with Natural England for the Torbay Local Plan concluded that as long as the s106 contributions as described above are implemented as part of development in the Brixham Peninsula, development in this area will have no adverse effect upon the integrity of any of the European sites and the conservation objectives would be sustained.

In order to mitigate the potential recreational impacts on the protected site the applicant needs to make the agreed payment, as per the Supplementary Planning Document on Recreational Impacts on Berry Head.

Financial contribution per dwelling, as per the Torbay Local Plan and supplementary planning document, to mitigate recreational impacts on the South Hams SAC – these contributions will be secured via a S.106 agreement.”

Regarding priority habitats (hedges), the consultee response stated: “The updated scheme proposals and ecology report provided in August 2020 states that existing vehicular entrance within the hedge the south-eastern boundary will not require widening. No direct impact to this hedgerow is now proposed.

Ecology reports indicates that the south east hedgerow will be kept unlit, so it provides a dark corridor for foraging/commuting bat species. The hedgerow will be protected from development due to the creation of a 5m buffer along the eastern edge.

Hedgerow will be protected throughout construction and this will be detailed in a CEMP, with the creation of this document being a condition of this outline permission.

The hedgerow onsite will be retained via the proposals and kept at under 0.5 lux. A 5m buffer zone will be created between the hedgerow and any onsite development and a 6ft high closed board fence will be installed to prevent it the 5m buffer being illuminated.

Condition: A detailed Lighting Strategy will be conditioned for agreement with the LPA. 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 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 private residence. This is to ensure the habitat corridor to the west of the site is kept to under 0.5lux.

Condition: A Construction and Environmental Management Plan which will include details of environmental protection throughout the construction phase, will be conditioned. This will need to be agreed with the LPA.

Condition: A Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and management, will be conditioned. This will need to be agreed with the LPA.”

Regarding bat flight lines, the consultee response stated:

“Ecology report states that a hedgerow to the south-east of the site is suitable in supporting foraging/commuting bats and the updated ecology report states that this hedge will suffer no direct impacts, as the existing vehicular access into site will be utilised without the need for further widening.

No bat activity surveys undertaken to accompany planning application, and this is considered sufficient.

The hedgerow onsite will be retained via the proposals and kept at under 0.5 lux. A 5m buffer zone will be created between the hedgerow and any onsite development and a 6ft high closed board fence will be installed to prevent it the 5m buffer being illuminated above 0.5 lux.

Further Information Required: Further clarity is still required with regards to the future ownership/ management of both the hedge and the close bordered fence. As stated in my previous comments, specific details of management can be submitted at RM but certainty is required from the applicant at this stage that the hedgerow and fence will be maintained and managed to ensure the dark corridor remains functional for bats.

Condition: The details for reserved matters will include the submission of a Construction and Environmental Management Plan which will include details of environmental protection throughout the construction phase. This will need to be agreed with the LPA.

Condition: The details for reserved matters will include the submission of a detailed Lighting Strategy for agreement with the LPA. 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 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 private residence. This is to ensure the habitat corridor to the west of the site is kept to under 0.5lux

Condition: The details for reserved matters will include the submission of a Landscape and Ecological Management Plan which will include details relating to habitat creation, species specification and management. This will need to be agreed with the LPA.

Regarding dormice, the consultee response stated:

“No dormice surveys were undertaken to accompany planning application and no detail provided as to the suitability of the south-eastern hedgerow for dormice. This south-eastern hedge will suffer no direct impacts, as the existing vehicular access into site will be utilised without the need for further widening – no impacts upon dormice.”

Regarding badgers, the consultee response stated:

“Signs of badgers checked when site walkover undertaken. No signs of badger present during site surveys.

Condition: Prior to the commencement of any site works, a repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to and approved in writing by the local planning authority.”

Regarding Cirl Buntings and nesting birds, the consultee response stated:

“Site is within a Cirl Bunting consultation zone. Site walkover indicates no suitable Cirl Bunting foraging habitat onsite or within the site’s locality. Hedgerow is suitable in supporting nesting birds and this habitat will be unimpacted.

No further surveys/mitigation required if the following condition is provided.

Condition: No vegetation clearance shall take place during the bird nesting season (01 March to 31 August, inclusive) unless the developer has been advised by a suitably qualified ecologist that the clearance will not disturb nesting birds and a record of this kept.”

Natural England:

“No objection. Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites.”

The consultation response also set out general advice on other natural environment issues.

County Archaeologist:

“The proposal is sited in an area of archaeological potential. The fields in this area are recorded as ‘Wall’ or ‘Wall Park’ on the mid-19th century Tithe Map. A Roman coin

has also been found in the vicinity. This may indicate the presence of buildings of the Roman period below the present ground surface.

As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development.

I recommend that this application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

If a Written Scheme of Investigation is not submitted prior to determination the Historic Environment Team would advise, for the above reasons and in accordance with paragraph 199 of the National Planning Policy Framework (2018) and Policy SS10 in the Torbay Local Plan 2012 - 2030, that any consent your Authority may be minded to issue should carry the condition as worded below, based on model Condition 55 as set out in Appendix A of Circular 11/95, whereby:

'No development shall take place until the developer has secured the implementation of a programme of 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, or such other details as may be subsequently 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 199 of the National Planning Policy Framework (2018), that an appropriate record is made of archaeological evidence that may be affected by the development'

This pre-commencement condition is required to ensure that the archaeological works are agreed and implemented prior to any disturbance of archaeological deposits by the commencement of preparatory and/or construction works.

I would envisage a suitable programme of work taking the form of archaeological monitoring of consented groundworks and the recording of any features or finds that are observed. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report, and the finds and archive deposited in accordance with relevant national and local guidelines."

Torbay Council's Highways Development Engineer:

No objection.

South West Water:

No objection.

Torbay Council's Waste Client Manager:

Response pending. A verbal update will be provided at the meeting of the Planning Committee.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Residential Development.
2. Design and Visual Impact.
3. Quality of Residential Environment
4. Impact on Neighbouring Amenity.
5. Impact on Highway Safety.
6. Ecology and Biodiversity.
7. Drainage and Flood Risk.
8. Low Carbon Development.

1. Principle of Residential Development

The proposal is for the development of three detached dwelling houses on unallocated greenfield land. The site is outside of (but adjacent to) the settlement boundary in terms of the Neighbourhood Plan, but is not designated as Countryside Area in terms of the Local Plan and is not designated as a Local Green Space in terms of the Neighbourhood Plan. In addition, it is noted that the site forms part of CIL Charging Zone 2 ("Outside 20 percent most deprived LSOAs and within the built up area") in terms of the adopted CIL Charging Zone maps.

It should be noted that, along with other parcels of land in the area ('Wall Park Extensions' and 'Berry Head Road', collectively comprising 15ha of greenfield land), the site was considered for allocation for housing as part of the making of the Brixham Peninsula Neighbourhood Plan. These parcels of land were assessed collectively and, as set out in the Brixham Peninsula Neighbourhood Plan 'Housing Site Assessment' document, were rejected for the following reasons:

"Development is likely to give rise to significant harm to the landscape character and visual amenity of this part of the AONB, within an area identified as being highly sensitive to change and subject to particular pressure, as well as likely to cause significant impacts to protected species. The sites are not deliverable because of the severe environmental constraints and are therefore not considered to be appropriate for allocation in the Neighbourhood Plan."

It is considered that the application site differs in terms of its context and situation compared to some of the other parcels of land that were collectively rejected for allocation, and that the suitability of the application site for residential development should be considered on its individual merits¹. With due regard to the reasons set out

¹ In this regard it is worth noting that, whereas the assessment of the 'Wall Park Extensions' and 'Berry Head Road' sites in the Brixham Peninsula Neighbourhood Plan 'Housing Site

in Brixham Peninsula Neighbourhood Plan 'Housing Site Assessment' document, specifically the concerns raised regarding the landscape character and visual amenity of the AONB, protected species and environmental constraints, it is considered that these concerns have been adequately addressed and/or mitigated as part of the application and that the site is deliverable for residential development subject to a number of planning conditions.

Policy E2 of the Neighbourhood Plan states that development outside settlement boundaries will need to meet the criteria in Policy C1 of the Local Plan. Similarly, Policy BH4 of the Neighbourhood Plan states that development that extends settlements onto adjoining greenfield sites will be considered in the context of Policy C1 of the Local Plan.

Policy C1 of the Local Plan states that, in the open countryside, away from existing settlements, and in rural areas surrounding the three towns of Torbay, development will be resisted where this would lead to the loss of open countryside or creation of urban sprawl, or where it would encourage the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting.

It is important to note that the site is somewhat anomalous in that, while it is outside of (but adjacent to) the settlement boundary in terms of the Neighbourhood Plan, it is not designated as being within the Countryside Area in terms of the Local Plan. This reflects the site's unusual situation of being greenfield land that, following the construction of residential development (Bloor Homes) on the allocated site to the east, is now surrounded on three sides (northwest, northeast, and southeast) by residential development, with Brixham Football Club adjacent to its fourth side (the southwest). While the site previously had some level of attachment to the surrounding countryside prior to the adjacent Bloor Homes development, the site now comprises an enclave within adjacent development with a clear sense of separation and visual distinction from the surrounding countryside. It is therefore considered that the proposal does not amount to development in the open countryside, would not be away from existing settlements, would not result in the loss of open countryside, would not lead to the creation of urban sprawl, and would not encourage the merging of urban areas with surrounding settlements. (In this regard it is relevant that the site is not designated as being within a Settlement Gap as described in Policy E3 of the Neighbourhood Plan.) The proposal might more reasonably be considered as a form of infill development on land that, although being an open field, is privately owned and not a local green space, and is largely surrounded by residential development that forms the eastern edge of this part of Brixham. It is therefore considered that the proposal does not present any conflict with the considerations set out in Policy C1 of

Assessment' document concludes by stating that, "following a suggestion that these sites be considered for protection by way of a Local Green Space designation by the Statutory Consultee Natural England, this Neighbourhood Plan has allocated these sites as Local Green Space within site E4-4", the application site itself was in fact not included in the said Local Green Space designation. This would support the view that this site is a somewhat anomalous site that differs from some of the other parcels of land with which it was grouped, and that the site warrants careful consideration and assessment on its individual merits, as this report seeks to provide.

the Local Plan, and that the proposal is therefore in accordance with Policies E2 and BH4 of the Neighbourhood Plan.

It is noted that the consultation response from Brixham Town Council asserts that the proposal should be considered in terms of the criteria set out in Policy BH9 of the Neighbourhood Plan, and that the proposal fails to meet the criteria. This policy, along with Policy C1 of the Local Plan, sets out certain types of developments that may be considered for land outside settlement boundaries as 'exception sites'. The intention of these policies is that, when dealing with land outside settlement boundaries that would not otherwise be considered suitable for development, exceptions may be considered for certain specified uses (for example agricultural development, affordable housing, touring caravans and tents, and various others) due to, for example, the specific locational needs of the said use or due to the challenges associated with delivering certain worthwhile but less profitable uses. In this instance it is considered that the application site can be considered suitable for development as the development constraints that have previously been identified have been adequately addressed within the proposal and can be adequately mitigated through the proposed planning conditions. It is therefore not considered necessary for the 'exception sites' criteria set out in Policy BH9 of the Neighbourhood Plan and Policy C1 of the Local Plan to be met.

Policy H1 of the Local Plan states that proposals for new homes on unallocated sites will be assessed against a set of criteria, proportionate to the scale of the proposal. The assessment of the proposal in relation to each criterion in Policy H1 is set out below:

- 1. The need to provide a range of homes, including family homes, affordable homes, and opportunities for self-build homes, to meet the full objectively assessed needs as far as is consistent with other policies in the NPPF, Local Plan, and Neighbourhood Plan:*

The proposed dwelling houses would be moderately sized and would be suitable for use as family homes. While the proposal is for market housing, the proposal also includes the payment of commuted sums for affordable housing in accordance with Policy H2 of the Local Plan, as set out in more detail later in the report. The proposal would therefore make a positive contribution towards addressing local housing needs.

- 2. The maintenance of a rolling 5 year supply of deliverable sites:*

It should be 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. In this regard it is important to note, however, that the Council's position with respect to the maintenance of a 5-year or 3-year housing land supply is of less important in this case as the 'tilted balance' in favour of sustainable development does not apply to sites that are located within the AONB, as is the case with this proposal.

- 3. The opportunity to create mixed, balanced and prosperous communities, including employment provision, with good access to social and environmental infrastructure:*

The proposal would provide dwelling houses that would be large enough for use as family homes, would be in an acceptable location with respect to social infrastructure, and would be well located with respect to environmental infrastructure. While the

proposal would not involve any new employment provision, the proposed dwellings would be in an acceptable location with respect to existing employment opportunities, noting that the eastern edge of Brixham Town Centre would be around 700m to the west. The site is within walking distance of local schools and bus routes are close by.

4. The creation of high quality living environments, including the protection of the amenity, recreational opportunities and access to facilities of all residents:

The indicative site layout plan indicates that it would be possible to accommodate three dwellings on the site in a layout that would provide an acceptable quality of living environment, including ample indoor dwelling space and outdoor amenity space, and without resulting in any unacceptable impacts on the amenities of neighbouring properties.

5. The capacity of physical, social and environmental infrastructure, including highways and sewerage, to accommodate development:

The proposed dwellings would be in an acceptable location with respect to existing social and environmental infrastructure. Regarding physical infrastructure capacities, it is reiterated that Torbay Council's Highways Engineer and South West Water have assessed the proposal and have raised no objections. It is noteworthy that the proposal also includes improvements to the private access lane which would be secured using a planning condition.

6. The objective to maximise the re-use of urban brownfield land and promote urban regeneration, whilst creating prosperous and liveable urban areas:

This criterion is not directly applicable to the proposal as the proposal relates to greenfield land rather than to brownfield land. It is nevertheless noted that, although the proposal is for a relatively low dwelling density of around 15 dwelling units per hectare, the proposal would not amount to an inefficient use of the site, noting that the remainder of the open field (the southeastern part) would still be able to take access from the cul-de-sac at Pilgrim Close to the east in the event that this land were to be considered for development in the future.

7. The landscape and biodiversity impacts of the proposal and the objective to achieve a net gain in biodiversity:

Although the site comprises part of an open field within the AONB, adjacent urban development has rendered the site an enclave surrounded by residential development on three of its four sides (northwest, northeast and southeast), with a football club on its fourth side (the southwest). Whereas previously the site may have had more of a sense of connectedness with the surrounding rural landscape, there is now a physical separation and visual distinction between the site and the rural landscape further to the east and south. While the site does naturally have a sense of openness and spaciousness in its current undeveloped form, there are no public vantage points from which the site appears as an intrinsic part of the wider AONB landscape and, on balance, the proposal's impact on the landscape character is considered acceptable.

The application has been accompanied by an ecology report, and the proposal's ecological impact is assessed in detail in the consultation response from the Devon County Council Ecologist and in the section on ecology later in this report. The proposal has been designed to accommodate the retention of the hedgerow along the southwestern boundary as a dark corridor, with the ongoing maintenance of the dark

corridor to be the responsibility of a management company, secured as part of a Section 106 Legal Agreement. Subject to a number of planning conditions, it is considered that the ecological impacts of the proposal can be adequately mitigated.

8. *The objective to reduce the need to travel by car, whilst making appropriate arrangements for vehicle ownership:*

Although the site is located at the eastern edge of this part of Brixham, the proposed dwelling houses would be around 20 minutes' walk from Brixham Town Centre. In terms of access to public transport, the proposed dwelling houses would be a short walk from the nearest bus stop on Wall Park Road, and would be around 20 minutes' walk from the central bus station in the town centre. The indicative site layout plan indicates that it would be possible to accommodate three dwellings on the site with enough space to include sufficient on-site vehicular parking as well as cycle storage.

9. *Consistency with other policies in the Local Plan and Neighbourhood Plan:*
This is set out in detail in the remainder of this report.

The proposal is therefore considered to be in accordance with the criteria set out in Policy H1 of the Local Plan for residential development on unallocated sites.

Policy M3 of the Local Plan states that any proposal on or in the vicinity of an important mineral resource, including a Mineral Safeguarding Area, should demonstrate that it will not cause unnecessary sterilisation or prejudice the future extraction of important minerals or building stone on these sites. Given that the site is in proximity to neighbouring residential development, it is considered unlikely that the site would be considered suitable for activities relating to the extraction of minerals due to the potential impact on neighbouring amenity. It is also noteworthy that the application site comprises less than a third of the area of the open field to the rear of Nos. 31-39 Wall Park Road, and that a significant proportion of the open field would therefore remain undeveloped. The proposal is considered to be in accordance with Policy M3 of the Local Plan.

2. Design and Visual Impact

Whilst the application is in outline with all matters reserved, the submitted information does include an indicative site layout plan which provides sufficient basis for an assessment of whether the proposed three dwelling houses could be constructed on the site in a layout, design and character that would not result in undue visual impact.

Paragraph 124 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. In addition, paragraph 130 states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy BH5 of the Neighbourhood Plan states that development should demonstrate good quality design and should respect the character and appearance of the surrounding area. Policy SS8 of the Local Plan states that, when assessing development proposals within the Area of Outstanding Natural Beauty (AONB), the conservation of the landscape and scenic beauty, biodiversity and

geodiversity will be given great weight, and that development will only be permitted in exceptional circumstances where it can be demonstrated to be in the public interest. Policy E1 of the Neighbourhood Plan states that development within the Area of Outstanding Natural Beauty (AONB) must demonstrate that great weight has been given to conserving and enhancing landscape and scenic beauty, and that development should not harm protected landscape characteristics including dark night skies and tranquillity.

Although the site comprises part of an open field within the AONB, adjacent urban development has rendered the site an enclave surrounded by residential development on three of its four sides (northwest, northeast and southeast), with a football club on its fourth side (the southwest). Whereas previously the site may have had more of a sense of connectedness with the surrounding rural landscape, there is now a physical separation and visual distinction between the site and the rural landscape further to the east and south. While the site does naturally have a sense of openness and spaciousness in its current undeveloped form, there are no public vantage points from which the site appears as an intrinsic part of the wider AONB landscape, noting that the site is also partially screened from public views by the established hedgerow that would be retained as a dark corridor along the southwestern boundary. The proposal is for detached dwellings that would be laid out in a relatively spacious arrangement that would accord with the character and urban grain of the surrounding residential areas, and the proposed retention of a portion of the open field between the rear plot boundaries of Nos. 31-39 Wall Park Road and the proposed dwelling houses would also serve to retain some of the open and spacious characteristic that currently prevails. The proposal is for a fairly low-density form of development (around 15 dwelling units per hectare) that is considered appropriate given the site's location at Brixham's urban fringe. On balance, the proposal's impact on the landscape character and scenic beauty of the AONB is considered acceptable, noting that the proposal would offer some public benefit in the form of the delivery of three dwelling houses as well as the payment of commuted sums for affordable housing, as explained in more detail later in the report.

The proposal is considered to be in accordance with Policies DE1 and SS8 of the Local Plan, Policies BH5 and E1 of the Neighbourhood Plan, and the guidance contained in the NPPF.

3. Quality of Residential Environment

Policy DE3 of the Local Plan states that development should provide a good level of amenity for future residents.

It is considered that the indicative site layout plan submitted with the application sufficiently demonstrates that it would be possible to construct three detached dwelling houses on the site in a manner that would provide a good quality of residential environment for future residents, including sufficient access to natural light, internal dwelling space, outdoor amenity space, on-site vehicular parking, and on-site cycle storage, in accordance with the requirements of Policy DE3 of the Local Plan.

The proposal is considered to be in accordance with Policy DE3 of the Local Plan.

4. Impact on Neighbouring Amenity

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

Given the siting and scale of the proposed dwelling houses as indicated on the indicative site layout plan, it is considered that the proposal would not result in any unacceptable impacts on the amenities of neighbours in terms of their privacy, outlook, or access to natural light.

Given the somewhat constrained access to the site and the potential for a negative impact on the amenities of occupiers of neighbouring properties during construction works, a condition is proposed requiring a Construction Method Statement.

Subject to the said condition, the proposal is considered to be in accordance with Policy DE3 of the Local Plan.

5. Impact on Highway Safety

Policy TA2 of the Local Plan states that all development proposals should make appropriate provisions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy BH8 of the Neighbourhood Plan states that access to new developments should comply with the relevant adopted standards. Policy TA3 of the Local Plan states that dwelling houses should each be provided with at least 2 on-site parking spaces as well as adequate space for covered cycle storage and bin storage.

The proposed dwelling houses would take vehicular and pedestrian access from Wall Park Road via an existing private access lane, and the submission also indicates that improvements would be made to the access lane. According to the submitted indicative site layout plan, the access lane would have a width of at least 3m for the entirety of the length of the access lane. Given that the access would serve multiple dwellings and would only be wide enough for 1 vehicle with no passing places, the proposal presents some conflict with the adopted Highways' Standing Advice which seeks to ensure that accesses serving more than one dwelling are wide enough to allow for vehicles to pass. It should be noted, however, that the Council's Highways Engineer has assessed the proposal and has raised no objections. Furthermore, Paragraph 109 of the NPPF 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. Given that the proposal would also include improvements to the access lane, it is considered that the increase in vehicular movement arising from three additional dwelling houses would not result in an unacceptable impact on highway safety or a severe cumulative impact on the road network.

It is considered that the indicative site layout plan submitted with the application sufficiently demonstrates that it would be possible to provide each of the proposed dwelling houses with on-site parking for at least two vehicles, as well as cycle storage. There would also be sufficient space to ensure that vehicles are able to manoeuvre on site such that they are able to enter and exit the site in a forward gear.

The proposal is considered to be in accordance with Policies TA2 and TA3 of the Local Plan, Policy BH8 of the Neighbourhood Plan, and the guidance contained in the NPPF.

6. Ecology & Biodiversity

Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and to take opportunities for enhancement, proportionate to the context and development.

The application has been accompanied by a Preliminary Ecological Appraisal (“the ecology report”) conducted by an ecologist. The ecology report has been assessed by the Devon County Council Ecologist (see the detailed consultation response above) who has indicated that, subject to a number of planning conditions and subject to a means of ensuring the ongoing maintenance of the hedgerow along the southwestern boundary of the site as a dark corridor, the application is acceptable on ecological grounds. In this regard it is noted that a Section 106 Legal Agreement would be used to secure the formation of a Management Company that will be responsible for, amongst other things, maintaining the hedgerow as a dark corridor. In accordance with the requirements of Policy NC1, the Section 106 Legal Agreement would also secure a payment towards mitigating the potential measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure.

The consultation response from the Devon County Council Ecologist confirms that a detailed Habitats Regulations Assessment is not required.

Subject to the said Section 106 legal agreement as well as planning conditions requiring a detailed lighting strategy, a Construction and Environment Management Plan (CEMP), a Landscape and Ecological Management Plan (LEMP), a repeat survey for the presence of badgers on the site, and a condition controlling the timing of vegetation clearance, the proposal is considered to be in accordance with Policy NC1 of the Local Plan and the guidance contained in the NPPF.

7. Flood Risk and Drainage

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

The site is located within the Critical Drainage Area and the application is accompanied by a Flood Risk Assessment which states that surface water drainage for the proposed dwellings would be achieved via soakaways, and that surface water drainage from the access lane would continue to discharge into the road gullies and highway drainage system within Wall Park Road (as per the existing) but with an upgraded surface and gully system. Given the nature of the proposal, and subject to a condition to secure the use of soakaways, the intended means of surface water drainage are considered acceptable having regard to the adopted Standing Advice, and the proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

8. Low Carbon Development

Policy SS14 states that, commensurate with their scale and nature, development proposals will be required to minimise carbon emissions and the use of natural resources expected to arise during the lifetime of the development. The said policy also seeks to ensure that the projected effects of climate change are duly considered. Policy BH7 of the Neighbourhood Plan seeks to ensure the use of sustainable construction methods in development and states that developments should be designed so as to minimise energy use and maximise energy efficiency.

Given that the application is in outline with layout, scale, design and landscaping being reserved matters, a condition is proposed requiring that, at reserved matters stage, evidence be submitted to demonstrate how the scheme meets the abovementioned policy aims in this regard. The site is considered to be in a sustainable location with respect to bus routes and local facilities and amenities, and, as discussed above, surface water drainage would be achieved via soakaways.

Subject to the said condition, the proposal is considered to be in accordance with Policy SS14 of the Local Plan and Policy BH7 of the Neighbourhood Plan.

Sustainability

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

The Economic Role

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

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

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

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

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing. Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry considerable weight in this balance. The proposed development would also contribute towards affordable housing through the payment of commuted sums, with this being secured through a Section 106 Legal Agreement.

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

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

The Environmental Role

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

The proposal would result in the use of a field, which currently contributes a sense of openness and spaciousness to the immediate vicinity, for residential development. Given that the site is within the AONB, this has been carefully considered as part of the assessment of the application. The site is somewhat anomalous in that, although it falls outside of the settlement boundary in terms of the Brixham Peninsula Neighbourhood Plan, it is not designated as Countryside Area in terms of the Torbay Local Plan, and adjacent development has rendered the site an enclave surrounded by residential development on three of its four sides, with the fourth side (the southwestern boundary) being screened from view from the public realm by a hedgerow that is to be retained. Given that there is a clear physical separation and visually distinction between the site and the rural landscape and countryside of the AONB further to the southeast, the impact on the character of the landscape and AONB is considered acceptable. It is also noteworthy that the proposal is for a relatively low-density form of development (around 15 dwellings per hectare) that would retain some of the existing sense of openness and spaciousness.

Conditions are proposed that would secure mitigation with respect to ecological impacts, the detailing and incorporating of biodiversity enhancement and energy efficiency measures at reserved matters stage, and the use of soakaways for the drainage of surface water relating to the proposed dwelling houses.

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.

Local Finance Considerations

S106:

Prior to a planning consent being issued, a S106 legal agreement pertaining to the following matters should be completed. Triggers and instalments in relation to the proposed financial contributions are to be agreed as part of the detailed negotiation of the legal agreement. It is recommended that authority to progress and complete the legal agreement be delegated to officers.

Management Company

In order to ensure that the dark corridor along the southwestern boundary of the site as well as communal areas including internal access roads and open spaces are suitably maintained in perpetuity, the applicant has agreed to institute a Management Company. This would be secured in terms of a Section 106 Legal Agreement.

Affordable Housing

In accordance with the requirements of Policy H2 of the Local Plan, the applicant has agreed to the payment of a commuted sum in the region of £32,400 towards affordable housing, with this amount calculated in accordance with the Council's 'Planning Contributions and Affordable Housing' Supplementary Planning Document. This would be secured in terms of a Section 106 Legal Agreement.

Recreational Pressure on Berry Head

For non-CIL liable developments, applications for additional dwellings within the Brixham Peninsula Neighbourhood Plan Area are required to pay a Section 106 contribution of £95 per dwelling in order to offset the resultant additional recreational pressure on the calcareous grassland at the Berry Head to Sharkham Point Component of the South Hams Special Area of Conservation. This is as per Policy NC1 of the Torbay Local Plan which states that "development contributions will be sought from development within the Brixham Peninsula (Policy SDB1) towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure", as well as the adopted 'Recreational Pressure on Berry Head' Supplementary Planning Document. The applicant has agreed to the payment of this amount which will be secured in terms of a Section 106 Legal Agreement.

CIL:

Given that the site is within CIL Charging Zone 2 and that the proposal is for 3 dwelling houses, the CIL liability for this development is Nil.

EIA/HRA

EIA:

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

HRA:

The site is within the Sustainance Zone of the Berry Head SSSI, associated with the South Hams SAC with respect to Greater Horseshoe Bats. By following the flow chart provided in the South Hams Special Area of Conservation (SAC) Greater Horseshoe Bats Habitats Regulations Assessment Guidance document (October 2019), it is not believed that the proposals will lead to the loss, damage or disturbance to a potential commuting route or foraging habitat used by GHBs associated with the South Hams SAC. There is unlikely to be a likely significant effect on the South Hams SAC and a detailed HRA is not required.

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to provide housing would produce a positive impact overall and help with the supply of much needed housing. Subject to the planning conditions and obligations detailed below, and bearing in mind that a number of elements, including the layout, scale, appearance and landscaping for the development will need to be the subject of reserved matters applications, the proposal is considered to be in accordance with the Development Plan.

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

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

Conclusion

The application is considered acceptable, having regard to the Local Plan, the Neighbourhood Plan, and all other material considerations.

Officer Recommendation

Approval: Subject to;

- 1. The conditions outlined below, with the final drafting of conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency;*
- 2. The completion of a S106 Legal Agreement to secure the heads of terms above, in accordance with the adopted 'Planning Contributions and Affordable Housing' Supplementary Planning Document and the adopted 'Recreational Pressure on Berry Head' Supplementary Planning Document, on terms acceptable to Officers.*

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

Conditions

Standard time condition:

That in the case of any reserved matter, an 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.

11. Reserved Matters condition

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

- (v) layout,*
- (vi) scale,*
- (vii) appearance; and*
- (viii) landscaping.*

The details of the reserved matters shall be consistent with the details submitted and approved pursuant to the outline consent.

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).

12. Lighting Assessment

All reserved matters applications shall include a Lighting Assessment detailing measures to minimise indirect impacts from lighting associated with the pre-construction, during construction, and operational activities, and demonstrating how the best practice (Bat Conservation Trust / Institution of Lighting Professionals, 2018) guidance has been implemented. This shall include details such as artificial lighting associated with public realm lighting, car headlights associated with traffic movements through the development and internal and external lighting associated with private residence, and shall ensure that the hedgerow along the southwestern boundary of the site is kept to under 0.5lux. Once agreed in writing by the Local Planning Authority, the development shall proceed in strict accordance with the approved details.

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

13. Construction Environmental Management Plan – Biodiversity

All reserved matters applications shall include a Construction Environmental Management Plan (CEMP: Biodiversity), which shall have been prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- h) Risk assessment of potentially damaging construction activities.
- i) Identification of 'biodiversity protection zones'.
- j) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- k) 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.
- l) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- m) Responsible persons and lines of communication.
- n) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

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

14. Landscape and Ecological Management Plan (LEMP) or equivalent

All reserved matters applications shall include a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, which shall be submitted and shall include, but not be limited to, the following.

- j) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- k) Ecological trends and constraints on site that might influence management.
- l) A habitat phasing plan to ensure habitat is established and functional in advance of impacts.
- m) Aims and objectives of management.
- n) Appropriate management options for achieving aims and objectives. Noting the comments from Natural England with regards to preferred hedgerow management options.
- o) Prescriptions for management actions.
- p) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- q) Details of the body or organisation responsible for implementation of the plan.
- r) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding 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 and NC1 of the Torbay Local Plan 2012-2030.

15. Flood risk

As part of any reserved matters application a scheme for the treatment of surface water that demonstrates that the risk of flooding would not be increased, which is in-line with the design parameters outlined within the submitted and approved Flood Risk Assessment, shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented in full prior to the first occupation of the development unless a phasing plan has been submitted to and approved by the Local Planning Authority, and shall be subsequently maintained thereafter.

Reason: To ensure that there are no increased flood risk, in accordance with Policies ER1 and ER2 of the Torbay Local Plan, the Paignton Neighbourhood Plan, and advice contained within the NPPF.

16. Biodiversity enhancement measures

As part of any reserved matters relating to layout, appearance and landscaping proposed measures to enhance biodiversity, including the assessment principals that have informed the proposals, 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 development, unless a phasing strategy has otherwise been agreed in writing, and shall be permanently managed and maintained at all times thereafter in accordance with the approved detail.

Reason: in the interests of biodiversity, in accordance with Policies SS8 and NC1 of the Torbay local Plan 2012-2030, the Paignton Neighbourhood Plan and the NPPF.

17. Construction method statement

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

- a) The parking of vehicles of site operatives and visitors.*
- b) Loading and unloading of plant and materials.*
- c) Storage of plant and materials used in constructing the development.*
- d) The erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.*
- e) Wheel washing facilities.*
- f) Measures to control the emission of dust and dirt during construction.*
- g) A scheme for recycling/disposing of waste resulting from demolition and construction works, with priority given to reuse of building materials on site wherever practicable.*
- h) Measures to minimise noise nuisance to neighbours from plant and machinery.*
- i) Construction working hours from 8:00 to 18:00 Monday to Friday, 8:00 to 13:00 on Saturdays and at no time on Sundays or Bank Holidays.*

Reason: In the interests of highway safety and local neighbour amenity, in accordance with Policy TA2 and DE3 of the Torbay Local Plan 2012-2030.

18. Access lane

Prior to the commencement of works on site, details of a scheme of improvements to the access lane serving the site, including (but not limited to) resurfacing, widening, and upgrading the surface water drainage system, where applicable, shall be submitted to and approved in writing by the Local Planning Authority. Once agreed, the scheme of improvements to the access lane shall be implemented in full prior to the occupation of the development hereby approved.

Reason: To ensure that the access is suitable, and in accordance with Policies TA2, ER1 and ER2 of the Torbay Local Plan 2012-2030 and Policy BH8 of the Brixham Peninsula Neighbourhood Plan.

19. Written Scheme of Investigation

No development shall take place until the developer has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation (WSI) which shall have 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, or such other details as may be subsequently 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 199 of the National Planning Policy Framework, that an appropriate record is made of archaeological evidence that may be affected by the development.

20. Energy Efficiency and Low Carbon Development

As part of any application for reserved matters relating to the proposal's layout, scale and appearance, details of energy efficiency measures shall be submitted for the approval in writing by the Local Planning Authority. The details shall include the provision of electric vehicle charging facilities to all dwellings.

The measures in relation to each residential unit shall be completed, in accordance with the approved details, prior to the first occupation of that unit.

Reason: In the interests of sustainable development and in accordance with Policy BH7 of the Brixham Peninsula Neighbourhood Plan, and Policies SS14 and TA3 (and Appendix F) of the Torbay Local Plan 2012-2030.

Development Plan Relevant Policies

Torbay Local Plan:

SS3 – Presumption in favour of sustainable development

NC1 – Biodiversity and geodiversity

SS8 – Natural environment

SS10 - Conservation and the historic environment

SS14 – Low carbon development and adaptation to climate change

*C1 – Countryside and the rural economy
H1 – Applications for new homes
H2 – Affordable housing
M3 – Preserving and safeguarding of limestone resources and key local building stone
DE1 - Design
DE3 – Development amenity
TA2 – Development access
TA3 – Parking requirements
ER1 – Flood risk
ER2 – Water management
SDB1 – Brixham Peninsula*

Brixham Peninsula Neighbourhood Plan:

*E1 – Landscape beauty and protected areas
E2 – Settlement boundaries
E3 – Settlement gaps
E4 – Local green spaces
BH4 – Housing development
BH5 – Good design and the town and village design statements
BH7 – Sustainable construction
BH8 – Access to new dwellings
BH9 – Exception sites*