

Friday, 16 June 2023

PLANNING COMMITTEE

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

Monday, 26 June 2023

commencing at **2.00 pm**

The meeting will be held in the Burdett Room, Riviera International Conference Centre, Chestnut Avenue, Torquay

Members of the Committee

Councillor Jacqueline Thomas (Chairwoman)

Councillor Pentney

Councillor Joyce

Councillor Billings (Vice-Chair)

Councillor Maddison

Councillor Cowell

Councillor Tolchard

Councillor Fox

Councillor Virdee

Together Torbay will thrive

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

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

PLANNING COMMITTEE AGENDA

1. **Apologies for absence**

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

2. **Minutes**

To confirm as a correct record the Minutes of the meeting of this Committee held on 30 May 2023.

(Pages 5 - 8)

3. **Disclosure of Interests**

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

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

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

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

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

4. **Urgent Items**

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

5. **48 - 50 The Terrace, Torquay (P/2022/0895/MPA)**

Change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extensions, including conversion of 5 Montpellier Road with car parking to rear to create a total of 12 apartments (see accompanying P/2022/0896). Description of development changed and amended plans received on 30 January 2023.

(Pages 9 - 34)

6. **48-50 The Terrace, Torquay (P/2022/0896/LB)**

Listed building consent for the change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extensions, including conversion of 5 Montpellier Road with car parking to rear to create a total of 12 apartments (see accompanying P/2022/0895).

(Pages 35 - 50)

Description of development changed and amended plans received on 30 January 2023.

7. **21 Sands Road, Paignton (P/2023/0318)** (Pages 51 - 81)
Conversion of hotel to 10 x 1 bedroom supported flats (C2 use), shared facilities and office spaces.
8. **Lincombe Keep, Lincombe Drive, Torquay (P/2023/0081)** (Pages 82 - 100)
Formation of additional storey with external terrace and alterations.

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.

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

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

Site Visits

If Members consider that site visits are required on any of the applications they are requested to let Governance Support know by 5.00 p.m. on Wednesday, 21 June 2023. Site visits will then take place prior to the meeting of the Committee at a time to be notified.

Meeting Attendance

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

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

Live Streaming

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

Minutes of the Planning Committee

30 May 2023

-: Present :-

Councillor Jacqueline Thomas (Chairwoman)

Councillors Billings, Cowell, Steve Darling, Fox, Joyce, Maddison, Pentney and Tolchard

(Also in attendance: Councillors Barbara Lewis, Chris Lewis and David Thomas)

1. Minutes

The minutes of the meeting of the Committee held on 13 March 2023 were confirmed as a correct record and signed by the Chairwoman.

2. Preston Down Road, Paignton - P/2022/0820

The Committee considered an application for the construction of 101 dwellings including a mix of 1, 2, 3 and 4 bedroom homes (30 affordable) together with new means of access, landscaping, public open space, play areas and associated works on two fields north and south of Preston Down Road.

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

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

Resolved:

Approved subject to:

1. the completion of a satisfactory Section 106 planning agreement and the agreement of any necessary extensions to the statutory determination period to complete this agreement;
2. a condition requiring the application to be started within 18 months of the date of the decision notice;
3. the conditions as outlined in the submitted report, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and

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

3. 7 - 9 The Riviera, Paignton - P/2023/0028

The Committee considered an application for the change of use from a residential care home (Use Class C2) to form 11 supported living accommodation units (Use Class C3b).

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

At the meeting the Planning Officer advised, that since the report had been published there had been an update on the use to clarify that there were eleven self-contained 'single person' supported living flats.

Resolved (unanimously):

Approved subject to:

1. the completion of a suitably worded Section 106 Legal obligation to secure a sustainable development obligation of £792;
2. the conditions as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

4. Sports Pitch - Site Adjacent to Brixham Cricket Club, 83 North Boundary Road, Brixham - P/2020/0480

The Committee considered an application for the change of use from agricultural land to outdoor football pitch for sports and recreational use, formation of parking area and associated works. (Part-retrospective).

Prior to the meeting written representations were available on the Council's website. At the meeting Mr Mike Morey and Mr Sean Langdon addressed the Committee in support of the application.

At the meeting the Planning Officer provided an update on the background to the application and that a further application P/2022/0339 had been submitted for an outdoor pitch with changing rooms and parking on the lower field which was also before the Committee at this meeting and detailed changes to the original plans for this football pitch.

Resolved:

Approved subject to:

1. the conditions as outlined in the submitted report, subject to condition 1 being reworded to include the former condition of the site as agricultural and condition 10 being reworded to include the word 'screening' within the condition, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;
2. the completion of a Section 106 agreement to:
 - a. secure the community use of the site;
 - b. reflect that the land must be returned to agricultural use for permanent pasture if the current use ceases;
 - c. reflect agricultural permitted development rights removing the ability for caravans and temporary buildings to be placed on the site; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

5. Sports Pitch - Side Adjacent to Brixham Cricket Club, 83 North Boundary Road, Brixham - P/2022/0339

The Committee considered an application for the change of use from agricultural land to outdoor football pitch, formation of parking area, changing rooms, boundary fence and associated works. (Part-retrospective).

Prior to the meeting written representations were available on the Council's website. At the meeting Mr Mike Morey and Mr Sean Langdon addressed the Committee in support of the application.

At the meeting the Planning Officer provided an update on the background to the application and that application P/2020/0480 for an outdoor pitch to the north of the site was also before the Committee at this meeting.

Resolved:

Approved subject to:

1. a condition restricting the use to between 08:00 to 21:30 due to the proximity of residential properties;
2. the conditions as outlined in the submitted report, subject to condition 1 being reworded to include the former condition of the site as agricultural and condition 10 being reworded to include the word 'screening' within the condition, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;

3. the completion of a Section 106 agreement to:
 - a. secure the community use of the site;
 - b. reflect that the land must be returned to agricultural use for permanent pasture if the current use ceases;
 - c. reflect agricultural permitted development rights removing the ability for caravans and temporary buildings to be placed on the site; and
4. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

6. Gazebo - Cafe, Oddicombe Beach - P/2023/0205

The Committee considered an application for the construction of a gazebo (part retrospective).

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

Resolved (unanimously):

Approved subject to:

1. the receipt of a Site Specific Flood Risk Assessment that demonstrates that the development is safe from all risks of flooding, to the satisfaction of officers;
2. the condition as outlined in the submitted report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency; and
3. the resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.

(Note: Prior to consideration of the item in Minute 6, Councillor Steve Darling declared a non-pecuniary interest as he rents a beach hut roof chalet at Oddicombe Beach and Member of Babbacombe Corinthian Cadet Club.)

Chairwoman

TORBAY COUNCIL

Application Site Address	48-50 The Terrace, Torquay
Proposal	Change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extensions, including conversion of 5 Montpellier Road with car parking to rear to create a total of 12 apartments (see accompanying P/2022/0896). Description of development changed and amended plans received on 30 January 2023.
Application Number	P/2022/0895
Applicant	Knightspur Homes Ltd.
Agent	Narracotts Architects
Date Application Valid	04.10.2022
Decision Due date	29.11.2022
Extension of Time Date	30.06.2023
Recommendation	<p>Approval of planning permission subject to:</p> <p>The conditions as outlined and final consultation response from the Highway Authority confirming no objections, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Major development
Planning Case Officer	Jim Blackwell

Location Plan



Site Details

The site comprises both 48 and 50 The Terrace. The properties originated as two terraced, mid-19th century town houses. In the 20th century they were converted to offices and at some point in time an internal link was created between them. The offices were used for an accountancy firm until June 2019. The buildings have been vacant since that time.

The northern boundary of the site adjoins Montpellier Road which serves as secondary access to the rear of The Terrace properties. The southern boundary of the site is adjacent to The Terrace.

No. 5 Montpellier Road is a two storey 20th century building on the highway edge forming the rear (north) entrance to the site. It is also currently vacant. The building has rendered walls, mixture of timber and uPVC windows and large areas of flat and mono pitched roofs which are covered with felt roof surrounding small, pitched or mono-pitched sections of slate and artificial slate with concrete and glazed ridge tiles.

The entire terrace including no.'s 42-58 is grade II listed and lies within the Torquay Harbour Conservation Area. St John the Apostle Church on Montpellier Road lies to the north, is Grade I Listed. The entire terrace contributes to this group value. The Torquay Harbour Conservation Area Appraisal identify the row as important buildings with an unspoilt frontage.

The site is highly visible within the town centre and harbourside. It is on the stepped slope

above the inner harbour and a major feature of the townscape and considered an important part of the conservation area.

The site is also designated as being within the 'Town Centre' under the Local Plan and within Flood Zone 1.

Description of Development

The development proposes the change of use from offices in numbers 48 and 50 The Terrace to residential with the provision of 10 residential apartments, comprising 3 one bedroom, 6 two bedroom and 1 three bedroom properties. No. 5 Montpellier Road would be converted to create 1 one bedroom apartment and 1 two bedroom apartment. The total number of new residential units would be 12. The properties would be separated along their original flank walls and access to all apartments provided through the principal entrances on The Terrace. New internal sub-divisions would be kept to the minimum necessary to ensure ease of flow and movement around the apartments and new structures are confined to the rear courtyards, removing or remodelling the unattractive, modern built elements and providing small external areas for some of the apartments where possible and appropriate.

The proposed internal alterations to create the new apartments have been carefully considered during the design process to ensure the retention and restoration of the historic floor plans, features and detailing.

The rear of the site includes a number of flat roof extensions with the creation of three small roof terraces. Again, these works balance the removal of previous poor quality extensions with simplifying the internal layouts.

The scheme also includes the retention of no. 5 Montpellier Road and conversion into 2 one bedroom flats with access to an internal courtyard beneath. The internal courtyard would contain seven parking spaces, air source heat pumps, cycle and bin store.

The scheme also includes a strategy for repair, restoration and reinstatement of features where appropriate, such as windows and doors.

There have been a number of amendments to the original applications include:

- An internal passenger lift has been omitted from no. 50.
- A car lift and below ground car park has been omitted.
- The existing structure of no. 5 Montpellier Road is no longer being demolished and reused to form new site entrance, bin and cycle store at street level and create two flats at first floor level.
- A sensitive, modern extension to the rear of no. 48 rather than large scale three storey extension.
- Refinement of the rear extension to no.50.
- Omit the flat, clad square roof design and create a mansard with slates.
- Refine the large central large, glazed window and create a curved dormer roof.
- Provided additional Drainage Strategy information.
- Provided extensive additional heritage assessments and design refinements in response to Historic England comments.
- The overall quantum of development has been reduced from 13 flats to 12.

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 2012-2030 (TNP)

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:

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. With regard to Conservation areas the Act requires that in the exercise, with respect to any buildings or other land in a conservation area, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Relevant Planning History

P/2022/0896	Listed building consent for Change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extension, demolition of 5 Montpelier Road and construction of apartment block with car parking to rear to create a total of 12 apartments (see accompanying P/2022/0895)	Under consideration
P/1988/0448	Alterations And Formation of New Windows	Approved 16/05/1988
P/1988/0447	Alterations To Form Additional Office Accommodation	Approved 16/05/1988

Summary of Representations

No objections.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No comments.

County Archaeologist and Historic Environment Manager:

No comments received.

Torbay Council's Engineering Service Manager:

No objection, subject to a condition within the planning approval that the design for the surface water drainage serving the car parks and Montpelier Road must have a limiting discharge of 1.5l/sec and the developer must demonstrate that there is no risk of flooding to property on

the site or any increase in risk to property or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.

Building Control:

No objection. In addition to the planning application the agents will need to consider how the internal layout will meet the requirements of the Building Regulations i.e., inner rooms, ventilation, means of escape routes etc. We would expect a Building Regulation application to be submitted that explains how Fire Safety requirements will be met, Damp proofing/tanking, Acoustic compliance between apartments etc, A full ventilation strategy including mechanical extract terminals on the outside of the building where necessary, thermal insulation upgrades to retained thermal elements such as floors, walls, roofs and windows, Solid waste storage locations and capacity etc. This list is not intended to be exhaustive but highlights issues that you may wish to highlight to the Agents as your discussion develops.

South West Water:

No objection.

Asset Protection

Please find enclosed a plan titled "The Terrace Torquay TQ1 1DD Sewer records" showing the approximate location of a public 2150mm by 2150mm sewer in the vicinity. Please note that no development will be permitted within 5 metres of the sewer, and ground cover should not be substantially altered.

We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Clean Potable Water

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

Foul Sewerage Services

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services.

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off.

Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that discharge to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

Environment Agency:

No comments received.

Devon County Council Ecology:

No objection. There will be no impact to the European site as part of this application. All potential impacts have been screened out.

Police Designing Out Crime Officer:

No objection subject to an appropriate level of parking to avoid disputes and lighting of dark areas.

Fire Safety Officer:

No objection. As the proposal will be subject to Building Regulations and the Regulatory Reform (Fire Safety) Order 2005, a statutory consultation will be undertaken between the Building Control Body and the Fire Authority.

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

Torbay Council's Highways Engineer:

The following information is required:

- Site access needs to be more clearly demonstrated on the site plan with visibility splays shown;
- Swept path analysis for a car accessing and egressing the car park is required;
- Details on disabled parking should be provided; and
- Outline of a refuse management plan is required.

Torbay Council Community Safety Team:

No objection subject to the inclusion of a condition requiring a Construction Management Plan.

Historic England:

Concerns on heritage grounds

Significance

The significance of 48-50 The Terrace, and of The Terrace as a whole, is described in our previous letter dated 20 October 2022, which this letter should be read in accordance with. I would note that the front elevation of the building is by far the most prominent and is central to the significance of the building.

Impact

The revised drawings show the retention with alterations of the rear building to Montpellier Road, and a minor revision to the treatment of the proposed roof extension.

Given that the significance of the building lies primarily in the front elevation, ensuring a full, scholarly restoration of the front elevation should be a high priority. Any trade-offs necessary in order to attain this should be made at the rear of the site.

A full restoration of the front elevation of 48-50 would include; restoration of the segmental-headed shape of the top of the second floor window openings to No. 50; removal of the projecting moulded sill band at second floor level, which is not original, and the installation of flat-fronted projecting stone sills like most of the windows in the terrace retain; removal of the prominent downpipe in the middle of the façade of No. 50; replacement of the existing windows to the first floor of No. 50 with six over six sashes (the sills of all five windows should remain at the level of the existing windows, because this is the original first floor sill level of the whole terrace); similarly the raising of the first floor sills of No. 48 to the original level; the restoration of the window and door openings at ground floor level of No. 50 to their original form, with semi-circular recessed arches; the restoration of a central door and windows at ground floor level of No. 50 to the original designs; making good of the railings to reflect the removal of the left hand doorway to No. 50; replacing the windows of the two outer attic dormers with timber ones of a suitable design, and finally returning the central dormer to its historic form to match the other two. The original semi-circular ground floor windows and door opening are shown clearly in these two historic images.

Some of these changes are included in the application, but not all are, and the detailing of the proposed new central doorway does not match the historic photos. This should be revised, so that all changes made to the front elevation are in accord with the original design.

In terms of the treatment of the attic roof of the building, the front slope is an integral part of the front elevation and is prominent in long views, of which there are many of this landmark building in this hilly town. What the list description rightly describes as 'some unfortunate attic additions' have already been made to Nos. 46-48 and 52-54. These have caused harm by eroding the unity, coherence and proportions of the roof of the terrace, originally characterised by a low slate pitched roof punctuated by a regular rhythm of small arched dormers and party wall parapets with chimneystacks between each house, and by looming over what was formerly a crisp, clean line between the cornice and the skyline when viewed from the street below.

This harm would be exacerbated by adding another attic extension to No.50, with a slightly higher ridge and extending upwards at a vertical angle from behind the cornice. The lack of symmetry in the attic extension would jar in this very symmetrical, classical house, and the large areas of glazing would be disproportionately sized and would make the roof extension more prominent. The setback for the roof terrace would be visually disruptive and would allow the space to be populated with domestic clutter, planters, barbeques etc, causing further visual disruption. The proposed glazed balustrade would be very prominent in certain lighting conditions because of its reflectivity, and would be a discordant addition, causing a significant degree of harm. While it will be for your Authority to judge the overall balance of harm, Historic England suggests that the extensive glazing proposed at attic level and on the parapet would cause gratuitous harm that has not been adequately justified.

Recommendation

Historic England has concerns regarding the applications on heritage grounds addressed in order for the applications to meet the requirements of paragraphs 200, 202 & 206 of the NPPF.

Waste and Recycling:

No objection.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Impact on heritage assets
4. Residential Amenity

5. Access, Movement and Parking
6. Ecology
7. Flood Risk and Drainage
8. Low Carbon / Climate Change
9. Designing out Crime

1. Principle of Development

The two grade II listed buildings comprise former offices in the built-up area, in a Community Investment Area, the Torquay Harbour Conservation Area and within the defined Town Centre. The principle of a change of use from vacant office to residential apartments is considered acceptable, for the reasons below.

Policies SS12 and H1 of the Local Plan supports proposals for new homes in the built-up area, subject to wider policy consistency, and promotes the re-use of brownfield land and the need to provide homes and meet housing needs. In addition, Policy TC1 of the Local Plan states that housing provision, within town centres not covered by primary or secondary shopping frontages, together with the reuse of underutilised floor space above existing commercial premises as a source of housing supply, will be supported. These policies support the provision of housing where it is sustainable development.

In terms of the Torquay Neighbourhood Plan the central policy guidance re principle is contained within Policy TT2 (Change of Use in Conservation Areas and Listed Buildings), which offers that within designated Conservation Areas the change of use, where proposals require consent, will be supported in principle (subject to other policies in this Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

For the reasons above the principle of the change of use is aligned with the aspirations of the Development Plan.

In terms of national guidance, the NPPF seeks to support the vitality of town centres, confirming that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It recognises, in Paragraph 86, that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

It is also relevant to note that the Council is currently falling short of a 3 and 5-year housing land supply and that the proposal would make a moderate contribution to this shortfall being addressed as a windfall brownfield development. The application of the 'tilted balance' in favour of sustainable development is a material policy consideration as identified by the NPPF. However, as cited above, the principle of residential is supported for the reasons stated. The 'tilted balance' guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. In regard to applying the 'tilted balance' it is relevant to note that there are heritage considerations due to the Conservation Area setting and works to listed buildings. As concluded within this report there are no heritage reasons that provide clear reason for refusing the application, so the 'tilted balance' is considered applicable. This guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Notwithstanding the NPPF and the 'tilted balance' guidance, this does not displace the primacy of the Development Plan.

As stated for the reasons above the principle of the change of use is aligned with the Development Plan and is hence supported, having regard for the aims and objectives of Policies SS12, H1, TC1 and TT2 of the Development Plan.

2. Design and Visual Impact

The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Para 126). It also states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (Para 134). In terms of the Development Plan Policy TH8 'Established architecture' is the key policy tool within the Torquay Neighbourhood Plan and cites that development must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy TT2 (Change of Use in Conservation Areas and Listed Buildings), offers that the change of use will be supported in principle to ensure a sound future for such heritage assets, and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

In terms of further advice within the Development Plan Policy DE1 of the Local Plan outlines the importance of good design and is also a key policy tool in design terms.

The local topography, urban and historic contexts are complex, each has individual constraints especially when taken as a whole. Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context. The key components of the assessment that inform this judgment are outlined below.

The proposed conversion, demolition and extension to this sensitive site are considered acceptable in the round. Following a range of discussions and consultation responses during the application process the design has been revised as set out previously in this report. In summary:

- An internal lift has been omitted from no. 50 due to the loss of historic fabric of the building and the level of harm.
- An internal car lift and below ground car park have been omitted due to the level of harm caused to the below ground structure and the level of complication required in terms of engineering works.
- No. 5 Montpellier Road is no longer proposed to be demolished and would be reused to form new site entrance, bin and bike store at street level and form two flats at first floor level. The scale of the potential building was considered overly dominant in the streetscene and would have had an impact on the setting of the listed buildings.
- The flat, clad square roof design has been omitted. A more appropriate slate mansard roof is now proposed.
- The large central large, glazed window has been amended to create a curved dormer roof.
- The rear extensions have been refined and reduced in scale due to the impact on the existing buildings.
- A range of additional information regarding drainage, movement, parking and landscaping has been provided.
- The number of units have been reduced following the above amendments from 13 flats to 12.

Layout

In terms of the basic layout, there is sufficient space around the buildings and within the development site to provide adequate landscaping, storage parking and present an acceptable setting for the development, that would not cramp or overdevelop the site.

The internal layouts of 48-50 The Terrace has gone through a number of design refinements and are now supported by Officers.

A hard surfaced, landscaped car park is proposed between the main building and no. 5 Montpellier Road. Gated access is provided through the building with two flats above. This first floor level takes into consideration the change in height between The Terrace and Montpellier Road. The internal and external layouts are therefore considered acceptable. Further highway matters and access are dealt with later in this report.

Appearance

In terms of the material palette, it is proposed that high quality, traditional materials found within the existing mid-19th century buildings features would be used. The existing main façade facing The Terrace comprises timber sashes and concrete painted window cills, carved and square head openings with wrought iron balustrades.

No. 48 retains a well preserved main entrance with original six panel doors and a glazed decorative fan light. It is proposed to return no. 50 to its original Georgian appearance, including restoration of the original central entrance. The proposed entrance would be a timber six panel door, with glazed decorative fan light on top. The new entrance itself would be decorated with Georgian pilasters, decorative consoles and projecting cornice on top. All doors and windows would match existing and walls finished in painted render, to match front façade. Existing Victorian windows in no.50 would be removed and reinstated to the original Georgian style; 12-pane sash windows at the ground floor and 15-pane sash windows at the first floor. As part of this process, it is proposed to lower the window cills down at the first floor, to match no.48. The second floor would receive new three over six pane sash windows. In total, the existing front and rear façade of no.'s 48 and 50 would have new wooden sash windows and solid wood doors, to match existing, concrete window cills painted white, metal rainwater goods and painted white render finish.

The impact on heritage assets is dealt with in the section below and again in the accompanying listed building consent Officer report. The proposed central dormer with its gently curved roof and simple vertical glazing is considered an enhancement compared to the current flat roof dormer with uPVC doors and windows which introduces incongruous features into the roofscape. That said, a bi-fold door has been included within the central dormer. Historic England clearly required the third floor to be redesigned and this been achieved to an appropriate level of detail. A condition has been suggested to further refine the door design and ensure a bi-fold door do not create a large opening at this high level, puncturing the proposed roofscape. Three simple doors are considered appropriate, and a suggested condition would ensure these details are agreed to the satisfaction of Officers. The mansard roof means there is limited space to use as a terrace. A further suitable condition has also been suggested to ensure that no domestic paraphernalia can be stored on the terrace.

Historic England comments have been considered and balanced with the full range of other significant improvements to the fabric of the building and the public benefit of bringing this vacant building back into a positive use. The repair and reinstatement work as proposed make sufficient steps to ensure the building would be fully used and to a high standard. These details are therefore considered acceptable subject to conditions.

No. 5 Montpellier Road would be refurbished with gated access provided through at street level. The walls would be of render, natural stone and slate. The proposed doors and windows are shown as aluminium in the new built elements which is considered acceptable. Given the significance of the building a condition has been suggested to ensure the details are acceptable. Historic England comments were focused on the restoration of the front elevation facing The Terrace. The retention of this existing building, including improving material palette is therefore considered acceptable.

When considering policy guidance, the proposal is deemed to be in accordance with Policies DE1, SS10 and HE1 of the Local Plan, TH8 of the Torquay Neighbourhood Plan, and is aligned with the guidance contained in the NPPF in terms of good design and heritage assets.

3. Impact on Heritage Assets

The titled balance requires an assessment of the NPPF policies that protect heritage assets. NPPF (2021) provides guidance as to when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 200). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202).

In terms of the Local Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan). This is aligned with the duties for decisions as required by section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The applications are supported by a range of statements of heritage significance and additional supporting assessments. Issues are detailed in the accompanying listed building consent application.

In terms of significance, the curved form of The Terrace is highly visible from much of Torquay and beyond and is particularly grand when viewed from across the harbour. The grade II listed terrace of nine houses was constructed in 1811, designed by Jacob Harvey, the first of Sir Lawrence Palk's interventions into the architecture and landscaping of the town. The white stucco, continuous railed balconies and rusticated, round-headed doorways with keystones create an impressive aspect, and whilst some of the qualities have been eroded by insensitive alterations, the overall impression is of a well maintained and attractive group.

The Terrace forms an integral part of the Torquay Harbour Conservation Area, particularly given the local topography and close proximity to nearby significant heritage assets. In terms of the surrounding heritage assets, to the north west lies St. John the Evangelist parish church, listed grade I, a Gothic Revival church built between 1861 – 1873. Unity Church listed grade II lies to the north east. St John's House, the only 19th century dwelling remains on Montpellier Road next to St Johns Church to the north west. The apartment block directly to the north of the site, opposite no. 5 Montpellier Road, is identified within the Conservation Area Appraisal as being key buildings and building groups of architectural importance or which make a significant contribution to the townscape. It is therefore clear that any change to the proposed sites have required careful analysis and consideration.

Historic England have provided two sets of comments, the first of which was supportive of the proposed reinstatement of many of the elements which have been lost or damaged through the previous office use, particularly in no. 50. These include the reinstatement of multi-paned sash windows, the reinsertion of the central elliptical stair and a central doorway. Conditions were suggested to ensure the level of detail was sufficient to reflect the significance of the buildings. They go on to raise concerns about the scale of the roof extension and symmetry

of the fenestration. As discussed previously, these details were noted by the applicant and the application details refined. The roof has been redesigned to create a slate covered mansard and the windows positioned centrally to continue the established rhythm in the adjoining terraces. The decision on balancing the level of harm between the public benefits of bringing the buildings back into residential use was noted to be down to Officers. The submission of additional information and amended plans appears to achieve that balance and Officers consider the proposal acceptable.

A second response from Historic England set out a range of comments suggesting the full restoration of the front elevation. A balance has again been struck here and Officers are satisfied with the level of detail and range of repair and reinstatement works. The impact on the setting of the surrounding designated heritage assets is considered to be positive. The restoration of the fenestration to the front, managed change to the roof and use of appropriate materials ensures that the proposal would not unduly impact the architectural or historic quality and integrity of the surrounding heritage assets and their setting.

In terms of detail, the second range of comments have been fully considered. In summary this has been achieved by limiting the increase in height of the roof (to enable head height to be achieved), creating a slate mansard roof (rather than vertical, box roof extension), creating symmetry within the roof slope (through the fenestration position) and reduction in the amount of glazing. The two key issues have also been resolved by the removal of the glass balustrade and proposed roof terrace. A condition has been suggested to control the use of the narrow terrace to preclude any domestic roof paraphernalia.

These details are now considered acceptable by Officers and find a balance with the more recent concerns made by Historic England. Conditions have been included to secure further details to ensure the quality of the development. The proposal is therefore considered to be in accordance with Policies SS10 and HE1 of the Local Plan, Policy TH10 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

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

4. Residential Amenity

The Local Plan contains policy guidance (through policies SS11, H1 and DE3) towards ensuring that residential development produces high-quality living environments that present a good level of amenity for future users and neighbouring occupiers. Policy DE3 also identifies size standards for self-contained units, which reflect national space standards.

The NPPF (Para 130) guides that decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Future Occupants

In terms of location the central setting is considered positive for the future use and well suited to a residential occupancy, presenting good opportunities for future occupants in terms of access to services, facilities and sustainable transport options, which is considered positive.

In terms of the proposed units the main buildings would be converted and extended to provide 6, two bed apartments, 5 one bed apartments and a three bed apartment. Two of the one bed

apartments would be accommodated in the retained building on Montpellier Road at first floor level. The units are largely generously scaled and would present attractive propositions for single occupants, couples, or small families, which presents some potential diversity in terms of occupation. This is noted in respect to seeking to influence mixed and balanced communities. Overall, the form of the proposed units is considered a positive in the terms of the Community Investment Area, as it does not seek small bedsits or small apartments.

The proposed schedule of accommodation is as follows:

Conversion of no.48

Flat	Type	GIA (m2)	Amenity (m2)
1	2 bed 4 person	94	24
4	2 bed 4 person	101	
6	2 bed 4 person	84	5
8	2 bed 4 person	97	12
10	2 bed 4 person	155	39

Conversion of no. 50

Flat	Type	GIA (m2)	Amenity (m2)
2	1 bed 2 person	67	19
3	1 bed 2 person	73	24
5	1 bed 2 person	94	
7	3 bed 6 person	119	11
9	2 bed 4 person	102	

Conversion of 5 Montpellier Road

Flat	Type	GIA (m2)	Amenity (m2)
11	1 bed 2 person	50	
12	1 bed 1 person	40	

The size of the units comfortably exceeds the minimum National Space Standards, which are also engrained within Policy DE3 of the Local Plan, and key living spaces are also generally well scaled and proportioned. These are therefore considered positive aspects by Officers in terms of amenity.

In terms of natural light and outlook the internal arrangement these provides a range of aspects to the apartments with adequate light and outlooks.

In terms of outdoor amenity space Policy THW4 of the Torquay Neighbourhood Plan seeks that flats or apartments must have either a balcony of not less than 10 sqm and as appropriate to the size of the home, or a communal green area of not less than 10 sqm per unit within the curtilage of the property. Policy DE3 of the Torquay Local Plan similarly expects apartments to offer 10sqm of outdoor space individually or communally. Most apartments (seven) within the scheme would benefit from some degree of outdoor space, either from private gardens, balconies or terraces, albeit only one of which not to the scale expected by the Development Plan Policies. These elements are positive and would enhance the residential environments but, when considering the central location and proximity to urban parks, the provision of such areas is welcomed, but not necessary, certainly as town centre living is often limited in terms of outdoor private space. Notwithstanding policy advice within the Development Plan the provision is considered acceptable in this particular context.

Cycle parking and waste storage facilities are to be provided in a safe and secure under-croft, courtyard which provides positive supporting facilities. The amount of cycle parking is policy

compliant and there is sufficient storage space for the necessary bins. The Waste and Recycling Team have confirmed these details are acceptable.

Neighbouring Occupants

The proposal does not introduce any built form that would impact neighbouring occupiers in terms of outlook, overshadowing or loss of sun/daylight. The proposed window repositioning would not result in an increase in overlooking of neighbours over and above the existing situation.

Having regard to the amenities provided within the proposal for future occupants, the scheme is considered sufficiently aligned with the aims and objectives of Policies SS11, H1, DE1 and DE3 of the Local Plan 2012-2030, and the NPPF.

5. Access, Movement and Parking

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

The Development Plan, largely through Policies TA1, TA2 and TA3 of the Local Plan, outlines similar policies goals as the NPPF, but also guides on parking levels and support towards promoting sustainable travel and providing sustainable transport facilities within new development. The Torquay Neighbourhood Plan supports the provision of parking outlined in the Local Plan in Policy TH9 and supports the encouragement of development that provides good access opportunities and thus reducing the need to travel within Policy TTR2.

The nearest bus stops are on The Strand 150m away which serves multiple bus routes and provide regular services around Torquay and nearby towns. The site is 1.6km east of Torquay railway station, which provides two services an hour north towards Newton Abbot and two hourly services south towards Paignton.

The access to the site is proposed under the retained no. 5 Montpellier Road. An automated gate would provide access for seven off-street parking spaces. As the site is located within the town centre and good public transport links are available, relaxed parking standards apply, as outlined in Appendix F of the Torbay Local Plan (2012-2030). Therefore, the proposed number of spaces is acceptable. Three of the seven parking spaces would have EV charging facilities exceeds the requirement of 20% parking spaces of new developments.

The location of the bike storage for 12 cycles is to be at the north part of the site on the first floor. The store is covered and secure and are therefore considered acceptable. A locked bin store has also been included on the first floor to the north of the site, adjacent the gates to Montpellier Road. The Highways Team have requested a refuse management plan. The Waste and recycling Team have accepted the level of detail submitted and have no objection, however a condition has been suggested to require a refuse management plan to be submitted to the satisfaction of Officers.

In terms of access and manoeuvrability, a swept path drawing has been submitted following the request from the Highway Team. Members will be updated about the suitability of this plan at the meeting. The Highway Team have also requested visibility splays of 2.4m x 43m. This is clearly unachievable given the retention of the existing building. Given the expected low vehicle speeds of Montpellier Road, the lack of footway fronting the building, to avoid any

highway safety impacts, the proposal in its current form is considered acceptable. This type of access and egress is also a common urban form and in use in the local area. Finally, an amended plan showing the provision of a disabled parking space has been submitted which is compliant with highway standards.

The proposal is considered acceptable on highway and movement grounds, providing development in a sustainable location with adequate car and cycle parking facilities, in accordance with Policies TA1, TA3 and DE1 of the Local Plan, Policy TTR2 of the Torquay Neighbourhood Plan, and the NPPF.

6. Ecology

Policy NC1 of The Local Plan seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy TE5 of The Neighbourhood Plan cites that where there may be an impact development should be accompanied by an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements to protect and enhance those species and habitats. Guidance within the NPPF provides similar guidance to the above in that planning decisions should contribute to and enhance the natural and local environment and includes guidance towards minimising impacts on and providing net gains for biodiversity (Para 174).

The site is a developed urban plot with limited ecological features present. The application is supported by an ecology report that confirms that protected species or habitats would not be affected by the development.

The site is approximately 550m north of Lyme Bay and Torbay SAC. The development proposals would result in an additional 12 residential units within 550m of Lyme Bay and Torbay SAC interest features. The site is also approximately 550m north of the Torbay Marine Conservation Zone (MCZ). In view of the nature of the application (largely change of use) for the new apartments, one impact pathway has been identified that could have the potential to affect the interest features of the MCZ. The effects on water quality including dust, sediment and pollutants reaching the MCZ potentially via construction activities. A pre-commencement condition has been suggested to require the submission of a Construction Ecological Environmental Management Plan to manage this potential issue. This document will provide measures of construction controls on dust and reducing contaminated run-off. Details of pollution control measures, including mitigation for the increased demand on foul water systems, post-construction will therefore need to be submitted and agreed.

The effects of increased recreational pressure have also been screened out of the assessment as part of this application given the small total net increase anticipated from this development compared with the total number of Torbay visitors. Subject to conditions requiring a CEMP, no external lighting and works outside the nesting season, the DCC Ecologist has no objection.

In terms of biodiversity goals, the submitted Ecology report does reflect that the NPPF seeks to maintain and enhance biodiversity within planning policies and decisions with regards to new development and that the development should incorporate bat and bird friendly features within its design, and in particular Swift boxes should be incorporated to provide potential nest sites. It also cites that any new landscaping should use native species or those beneficial to wildlife to address this requirement. In terms of precautionary advice, the report also confirms that nesting birds must be considered against disturbance during nest building and nesting, typically, between March-August to avoid contravening the legislation which protects them. A further condition is included below to secure enhancement measures, landscaping measures and control disturbance of nesting birds.

Therefore, subject to conditions, the proposals are considered in accordance with the aspirations of Policies SS8, DE1 and NC1 of The Local Plan, Policy TE5 of the Torquay Neighbourhood Plan, and advice contained within 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 policy outlines a hierarchy for water-flow management within new development, and similar guidance is contained within the Environment Agency's Critical Drainage Area Advice Note for Torbay.

The Council's Flood Engineer has no objection subject a condition within the planning approval that the design for the surface water drainage serving the car parks and Montpellier Road must have a limiting discharge of 1.5l/sec and the developer must demonstrate that there is no risk of flooding to property on the site or any increase in risk to property or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change. A suitable condition has been suggested.

As the proposal is principally a change of use with reduced flood risk from improving the existing surface water drainage system the proposal is considered acceptable. That said, in response to comments from the Drainage Engineer attenuation tanks are proposed below the car park deck. These details are considered acceptable subject to conditions confirming their final design.

South West Water has provided a plan showing a sewer running east west across the site to the south of the Montpellier Road building. They have advised that no development will be permitted within 5 metres of the sewer, and ground cover should not be substantially altered. The retention of this building and modest extensions to the main buildings over 5m away means the development will comply with this requirement. The proposal also now includes attention tanks below the development which would be considered an acceptable method for managing surface water run-off.

The proposal is therefore considered acceptable in terms of drainage and flood risk and aligned with the aims and objectives of Policies ER1 of the Local Plan and the NPPF.

8. Low Carbon / Climate Change

Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials. Policy ES1 seeks that all major development proposals should make it clear how low-carbon design has been achieved, and that proposals should identify ways in which the development will maximise opportunities. ES1 also states that the retrofit of energy efficiency measures to existing buildings will be encouraged and supported, and that opportunities for reducing carbon emissions associated with energy use will be sought through the development management process as part of the wider conversion/ refurbishment of buildings where planning permission is required. Policy W1 (Waste hierarchy) of the Local Plan seeks that all development should seek to minimise the generation of waste, having regard to a waste hierarchy, which includes prevention, for example using less material in design and other measures to minimise waste generation.

The application is supported by an Energy Statement. Analysis of the predicted baseline energy consumption and resulting carbon emissions for the proposed development using SAP 10 Methodology, an Air Source Heat Pump heating system with the addition of a solar PV array is the most viable option within the constraints of the site 48-50 The Terrace, Torquay. These are to be installed along with the following measures:

- A fabric first approach to the design with modern insulation products
- The installation of high efficiency heating controls.
- The installation of high efficiency lighting.

The reuse of the buildings is supported in terms of utilising the embodied energy within the building. This includes reusing material within the partial demolition walls and the later rear extensions. The retention of as much fabric within 48-50 The Terrace and most importantly through the retention of 5 Montpellier Road would be a positive in terms of embodied energy.

The development is, for the reasons above and subject to the detailed condition, considered suitable for approval, in accordance with Policies SS14 and ES1 of the Local Plan.

9. Designing Out Crime

Policy S11 of the Torbay Local Plan requires development to help reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict.

No objections have been raised by Devon and Somerset Police. Subject to the use of a condition requiring the development to be a Secured by Design standard, the proposal is in accordance with Policy SS11 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

Housing provision is a driver of economic growth and there would be economic benefits of bringing the site into use and into a residential use. Aside the longer-term economic benefits of local spend from occupants the construction phase would also create jobs within the local economy. There are no adverse economic impacts that would arise from this development. The building has not been used for approximately four years and the provision of 12 households in the town centre will help town centre vitality and viability. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

The principle social benefit of the proposed development is that it would help deliver good-sized units, in one, two and three beds, that could be occupied by singles, couples or small families, helping aspirations towards mixed and balanced communities. This would be in an area that would be well located for shops, services and job opportunities for occupants. In respect of the social element of sustainable development the balance is in favour of the development.

The Environmental role

The environmental benefits are considered positive. It provides a long-term use for a building that has embodied energy within its fabric and the sustainable central location provides lifestyle opportunity that may be less reliable on cars and reduces need for travel. In respect of the environmental element of sustainable development the balance is in favour of the development.

Sustainability Conclusion

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

Local Finance Considerations

CIL

The land is situated in Charging Zone 1 in the Council's CIL Charging Schedule and residential units is chargeable development, this means that all new floorspace will be charged at a rate of £30/sqm unless exempt.

Based on the submitted CIL form, which provides an indication, subject to formal determination, that the proposal, which is stated as delivering 1346 sqm of CIL liable floorspace, is likely to deliver circa £40,380 in CIL payments.

S106

Site Acceptability Matters: None.

Affordable Housing: N/A for this scale of development on a brownfield site.

Sustainable Development Matters: N/A as CIL liable development.

S106 legal agreement hence not required. No obligations necessary to make the development acceptable.

EIA/HRA

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

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

Planning Balance

The planning assessment considers the policy and material considerations in detail. It is considered that the scheme in terms of addressing the Development Plan aspiration to promote reuse brownfield sites and provide housing would produce a positive impact overall. It is also noted that it will also trigger CIL payment of approximately £40,380.

Conclusions and Reasons for Decision

The change of use and alterations are acceptable from a policy perspective and will provide a suitable use for the location in what are currently a vacant pair of office buildings and deliver much needed housing.

The proposal will provide an acceptable standard of accommodation when considered in the round and in the location is very sustainable with easy access to shops, facilities, employment opportunities, sustainable transport modes, and local parks.

Subject to appropriate Conditions the proposal is recommended for approval.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations for the reasons stated within this report.

Officer Recommendation

Approval: Subject to the conditions as outlined.

Conditions

Pre-commencement conditions:

1. Construction Ecological Environmental Management Plan

Prior to the commencement of development including ground works or vegetation clearance a Construction Ecological Environmental Management Plan (CEEMP: Biodiversity) concerning the site shall be submitted to and approved in writing by the Local Planning Authority. The CEEMP (Biodiversity) shall include the following:

- a) Risk assessment of potentially damaging construction activities and identification of stages of works.
- b) Identification of "biodiversity protection zones".
- c) Details of working hours; Details of all plant and machinery to be used during site clearance and construction stage, including an inventory of all Non-Road Mobile Machinery (NRMM); Details of temporary lighting used in construction of for security reasons.
- d) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction
- e) The location and timing of sensitive works to avoid harm to biodiversity features.
- f) The times during construction when specialist ecologists need to be present on site to oversee works.
- g) Responsible persons, lines of communication and written notifications of operations to the Local Planning Authority.
- h) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.
- i) Use of protective fences, exclusion barriers and warning signs.
- j) Ongoing monitoring, including compliance checks by a competent person(s) during construction and immediately post-completion of construction works.
- k) Pollution controls to avoid impacts to the SAC and MCZ.
- l) Details of lighting restrictions to avoid impacts to bats and other nocturnal wildlife.

The approved CEEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details.

Reason:

In the interests of biodiversity and to minimise impacts on protected species in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030, and paragraphs 109 and 118 of the NPPF and PNP1 of the Paignton Neighbourhood Plan.

These details are required pre-commencement as specified to ensure that biodiversity and protected species are not harmed by building operations or vegetation removal.

2. Nesting Season

Within the nesting season, March to August inclusive, prior to the commencement of any works to the existing roof of the building a preliminary assessment shall be undertaken to establish any presence of nesting birds. Should nesting birds be found all works to the roof shall stop until the bird have fledged and a suitably qualified ecologist has confirmed that works can commence.

Reason:

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

3. Ecology – biodiversity enhancement

Prior to the first use of the building measures to maximise opportunities for biodiversity enhancement in and around development, to deliver a net gain for biodiversity, shall be submitted to and approved in writing by the Local Planning Authority, in accordance with the submitted ecology report.

The approved measures shall be delivered in full prior to the first occupation of the development and maintained for their purpose thereafter through the life of the development.

Reason:

To ensure the development positively incorporates biodiversity features proportionate to its scale, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030 and advice contained within the NPPF.

4. Soft Landscaping Implementation

All planting, seeding and turfing comprised in the approved details of landscaping shall be carried out in the first available planting and seeding season following the completion of the development on that phase, or at such other time as agreed by the Local Planning Authority in writing. Any trees or plants which within a period of 5 years from the completion of the landscaping die, are removed or become seriously damaged or diseased shall be replaced in the next available planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason:

In the interests of the amenities of the area and in accordance with Policies DE1, DE3, SS8, SS9, C4 and NC1 of the Torbay Local Plan 2012-2030.

5. Hard Landscaping Implementation

Prior to the first occupation hereby permitted, the scheme of hard landscaping treatment for that phase shall be fully installed in accordance with the approved plans. Once provided, the agreed hard landscaping treatment shall be retained for the life of the development.

Reason:

In interests of visual and residential amenity and in accordance with Policies DE1 and DE3 of the Torbay Local Plan 2012-2030.

6. External improvements

Unless an alternative phasing plan is agreed, the external works to the front elevation will be completed prior to the occupation of 48-50 The Terrace.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

7. External lighting

No new external lighting, other than that shown on the approved plans, shall be installed within the boundary of the application site unless in accordance with details that shall have first been submitted to and approved in writing by the Local Planning Authority. Such details shall include the location, number, luminance, angle of illumination and type of each luminaire or light source and a lux diagram showing the light spill from the scheme. The lighting shall thereafter be installed and maintained operated in accordance with the approved details.

Reason:

To avoid harm to bats and wildlife in accordance with Policy NC1 of the Adopted Torbay Local Plan 2012-2030 and Policy TE5 of the Torquay Neighbourhood Plan.

8. Detailed Design

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

- (i) sedum roofs
- (ii) solar panels
- (iii) balcony and terrace enclosures
- (iv) gate to no. 5 Montpellier Road
- (v) structural works to support parking deck
- (vi) attenuation tank design, fixing and associated pipework

The development shall proceed fully in accordance with the approved detailed design elements on the submitted and approved plans (including the approved reveal depths).

Reason:

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

9. Amended plan details

Notwithstanding the submitted details, prior to the installation of new glazing including windows and doors within the roof of no. 50, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Three individual doors with frames between each door.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Torquay Neighbourhood Plan.

10. Works of making good

All new external works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Torquay Neighbourhood Plan.

11. Roof material sample

Prior to the installation of any roof covering a sample of the roofing material proposed shall be submitted and approved in writing by the Local Planning Authority.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

12. Window and doors details

Notwithstanding the approved plans and details, prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10
- Dressed stonework, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

13. External render

Prior to the installation of external render materials, sample panel(s) of all new render shall be provided on site showing the proposed render mix, colour and final surface texture, and the materials and methods shall have been submitted and approved in writing by the Local Planning Authority. The approved sample panel(s) shall be retained on site until the work is completed.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason:

In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of Torquay Neighbourhood Plan.

14. Energy / Low Carbon

Prior to the commencement of development an Energy Statement, which responds in detail to the Energy Strategy outlined within the submitted Design and Access Statement, specifically how the development limits its carbon production through its lifetime from detailed consideration of the stated "Be Clean" and "Be Green" concepts, shall be submitted to and approved in writing by the Local Planning Authority.

The approved measures within the submitted and approved Energy Statement shall be incorporated within the development in full and thereafter be maintained and operational.

Reason:

In the interests of sustainable development and to minimise carbon emissions in accordance with Policy SS14 and ES1 of the adopted Torbay Local Plan 2012-2030. These details are required pre-commencement in order to inform the construction phase.

15. Hours of Construction

All works and ancillary operations which are audible at the site boundary, or at such other place as may be agreed with the Local Planning Authority, shall be carried out only between

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

Reason:

In the interests of the amenities of surrounding occupiers during the construction of the development, in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

16. 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.
- 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.

17. Refuse Management Plan

A Waste Management Plan shall be submitted and approved in writing by the Local Planning Authority in writing prior to the occupation of any proposed building. The development shall thereafter be operated in accordance with the approved details.

Reason

In interests of visual amenity and in accordance with Policy DE1 and DE3 of the Torbay Local Plan 2012-2030.

18. Parking provision

Prior to the first occupation of the development the parking facilities hereby approved shall have been provided in full. These elements shall thereafter be retained in full as parking facilities to serve the development for the life of the development.

Reason:

To secure an appropriate form of development in accordance with Policies DE1 and TA3 of the Torbay Local Plan 2012-2030 and Policies TH8 and TH9 of the Torquay Neighbourhood Plan.

19. Electric charging facilities

Prior to the first occupation of the development details of the location and form of electric car charging facilities to serve the development shall be submitted to and approved in writing by the Local Planning Authority. The provision shall serve no less than 20% of the development.

The charging facilities shall be implemented in full and made available for use prior to the first use of the building and shall be always maintained and available for use thereafter to serve the development.

Reason:

To secure an appropriate form of development in accordance with Policies TA3 and SS14 of the Torbay Local Plan 2012-2030 and Policy TH9 of the Torquay Neighbourhood Plan.

20. Cycle parking provision

Prior to the first use of the development the approved cycle parking facilities shall be completed and made available for the purpose of cycle parking to serve the development. Once provided, the cycle parking facilities shall be retained for the life of the development for such purposes.

Reason:

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

21. Waste provision

Prior to the first occupation of the development the waste and recycling storage facilities shall be completed and made available for the purposes of waste storage to serve the development. The approved waste storage arrangements shall thereafter be retained for the life of the development.

Reason:

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

22. Surface Water Drainage Implementation

The development shall not be occupied until the surface water drainage system detailed in the Drainage Strategy by Narracotts Architects (dated April 2022) has been completed in accordance with the submitted plans. The system shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 50% for climate change unless an alternative means of surface water drainage is submitted to and agreed in writing by the Local Planning Authority prior to installation. To adhere to current best practice and take account of urban creep, the impermeable area of the proposed development must be increased by 10% in surface water drainage calculations. The development hereby approved shall not be occupied or brought into use until the agreed drainage scheme has been provided and it shall be retained and maintained for the lifetime of the development. The surface water drainage system as detailed on these plans shall then be retained and maintained for the lifetime of the development.

Reason:

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

23. Boundary treatments / means of enclosure

Notwithstanding the provisions of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended (or any Order revoking, re-enacting, or further amending that Order), no means of enclosure other than those detailed within the plan hereby approved, including gates, fences, walls or other means of enclosure.

Reason:

In order to safeguard the character and visual amenities of the locality in accordance with Policies SS10 and DE1 of the Torbay Local Plan 2012-2030 and Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

24. Roof paraphernalia

No domestic paraphernalia shall be located on the front (south west elevation) roof terrace of no. 50 The Terrace unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, satellite dishes and external lighting.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

25. Secured by Design

Prior to the first use of the development evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the design of the development meets Secured by Design standards as far as practicable and the measures shall be incorporated into the development prior to that part of the development to which they relate being brought into use.

Reason:

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

26. Dwelling Use / Small HMO PD

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

Reason:

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

Informative(s)

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

Relevant Policies

Local Plan

- DE1 – Design
- DE3 – Development Amenity
- ES1 - Energy
- TA2 – Development Access
- TA3 – Parking Requirements

ER1 – Flood Risk
ER2 – Water Management.
NC1 – Biodiversity and Geodiversity
HE1 – Listed Buildings
SS3 – Presumption in favour of Sustainable Development
SS4 – The Economy and Employment
SS10 – Conservation and the Historic Environment
SS11 – Sustainable Communities
SS14 - Low carbon development and adaptation to climate change
C4 – Trees, hedgerows and natural landscape features

Torquay Neighbourhood Plan

TH8 – Established Architecture
TH9 – Parking Facilities
THW5 – Access to sustainable Transport
TE5 – Protected species habitats and biodiversity
TH10 – Protection of the Historic Built Environment
TS1 – Sustainable Development
TS4 – Support for Brownfield and Greenfield development
TT2 – Change of use in Conservation Areas and Listed Buildings

Application Site Address	48-50 The Terrace, Torquay
Proposal	Listed building consent for the change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extensions, including conversion of 5 Montpellier Road with car parking to rear to create a total of 12 apartments (see accompanying P/2022/0895). Description of development changed and amended plans received on 30 January 2023.
Application Number	P/2022/0896
Applicant	Knights spur Homes Ltd.
Agent	Narracotts Architects
Date Application Valid	04.10.2022
Decision Due date	29.11.2022
Extension of Time Date	30.06.2023
Recommendation	<p>Approval of listed building consent subject to:</p> <p>The conditions as outlined, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	Listed building consent as part of major development.
Planning Case Officer	Jim Blackwell

Location Plan



Site Details

The site comprises both 48 and 50 The Terrace. The properties originated as two terraced, mid-19th century town houses. In the 20th century they were converted to offices and at some point in time an internal link was created between them. The offices were used for an accountancy firm until June 2019. The buildings have been vacant since that time.

The northern boundary of the site adjoins Montpellier Road which serves as secondary access to the rear of The Terrace properties. The southern boundary of the site is adjacent to The Terrace.

No. 5 Montpellier Road is a two storey 20th century building on the highway edge forming the rear (north) entrance to the site. It is also currently vacant. The building has rendered walls, mixture of timber and uPVC windows and large areas of flat and mono pitched roofs which are covered with felt roof surrounding small, pitched or mono-pitched sections of slate and artificial slate with concrete and glazed ridge tiles.

The entire terrace including no.'s 42-58 is grade II listed and lies within the Torquay Harbour Conservation Area. St John the Apostle Church on Montpellier Road lies to the north, is Grade I Listed. The entire terrace contributes to this group value. The Torquay Harbour Conservation Area Appraisal identify the row as important buildings with an unspoilt frontage.

The site is highly visible within the town centre and harbourside. It is on the stepped slope above the inner harbour and a major feature of the townscape and considered an important

part of the conservation area.

The site is also designated as being within the 'Town Centre' under the Local Plan and within Flood Zone 1.

Description of Development

The development proposes the change of use from offices in numbers 48 and 50 The Terrace to residential with the provision of 10 residential apartments, comprising 3 one bedroom, 6 two bedroom and 1 three bedroom properties. No. 5 Montpellier Road would be converted to create 1 one bedroom apartment and 1 two bedroom apartment. The total number of new residential units would be 12. The properties would be separated along their original flank walls and access to all apartments provided through the principal entrances on The Terrace. New internal sub-divisions would be kept to the minimum necessary to ensure ease of flow and movement around the apartments and new structures are confined to the rear courtyards, removing or remodelling the unattractive, modern built elements and providing small external areas for some of the apartments where possible and appropriate.

The proposed internal alterations to create the new apartments have been carefully considered during the design process to ensure the retention and restoration of the historic floor plans, features and detailing.

The rear of the site includes a number of flat roof extensions with the creation of three small roof terraces. Again, these works balance the removal of previous poor quality extensions with simplifying the internal layouts.

The scheme also includes the retention of no. 5 Montpellier Road and conversion into 2 one bedroom flats with access to an internal courtyard beneath. The internal courtyard would contain seven parking spaces, air source heat pumps, cycle and bin store.

The scheme also includes a strategy for repair, restoration and reinstatement of features where appropriate, such as windows and doors.

There have been a number of amendments to the original applications include:

- An internal passenger lift has been omitted from no. 50.
- A car lift and below ground car park has been omitted.
- The existing structure of no. 5 Montpellier Road is no longer being demolished and reused to form new site entrance, bin and cycle store at street level and create two flats at first floor level.
- A sensitive, modern extension to the rear of no. 48 rather than large scale three storey extension.
- Refinement of the rear extension to no.50.
- Omit the flat, clad square roof design and create a mansard with slates.
- Refine the large central large, glazed window and create a curved dormer roof.
- Provided additional Drainage Strategy information.
- Provided extensive additional heritage assessments and design refinements in response to Historic England comments.
- The overall quantum of development has been reduced from 13 flats to 12.

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 2012-2030 (TNP)

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:

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that in considering whether to grant listed building consent for any works, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

Relevant Planning History

P/2022/0895	Planning permission for Change of use from office (Use Class E) to residential (Use Class C3), internal alterations, extension, demolition of 5 Montpellier Road and construction of apartment block with car parking to rear to create a total of 12 apartments (see accompanying P/2022/0895)	Under consideration
P/1988/0448	Alterations And Formation of New Windows	Approved 16/05/1988
P/1988/0447	Alterations To Form Additional Office Accommodation	Approved 16/05/1988

Summary of Representations

No objections.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No comments.

County Archaeologist and Historic Environment Manager:

No comments received.

Torbay Council's Engineering Service Manager:

No objection, subject to a condition within the planning approval that the design for the surface water drainage serving the car parks and Montpellier Road must have a limiting discharge of 1.5l/sec and the developer must demonstrate that there is no risk of flooding to property on the site or any increase in risk to property or land adjacent to the site for the critical 1 in 100 year storm event plus 50% for climate change.

Building Control:

No objection. In addition to the planning application the agents will need to consider how the internal layout will meet the requirements of the Building Regulations i.e., inner rooms, ventilation, means of escape routes etc. We would expect a Building Regulation application to be submitted that explains how Fire Safety requirements will be met, Damp proofing/tanking, Acoustic compliance between apartments etc, A full ventilation strategy including mechanical extract terminals on the outside of the building where necessary, thermal insulation upgrades to retained thermal elements such as floors, walls, roofs and windows, Solid waste storage locations and capacity etc. This list is not intended to be exhaustive but highlights issues that you may wish to highlight to the Agents as your discussion develops.

South West Water:

No objection.

Asset Protection

Please find enclosed a plan titled "The Terrace Torquay TQ1 1DD Sewer records" showing the approximate location of a public 2150mm by 2150mm sewer in the vicinity. Please note that no development will be permitted within 5 metres of the sewer, and ground cover should not be substantially altered.

We will discuss with you whether your proposals will be affected by the presence of our apparatus and the best way of dealing with any issues as you will need permission from South West Water to proceed.

Clean Potable Water

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

Foul Sewerage Services

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

The applicant can apply to South West Water for clarification of the point of connection for either clean potable water services and/or foul sewerage services.

Surface Water Services

The applicant should demonstrate to your LPA that its prospective surface run-off will discharge as high up the hierarchy of drainage options as is reasonably practicable (with evidence that the Run-off.

Destination Hierarchy has been addressed, and reasoning as to why any preferred disposal route is not reasonably practicable):

1. Discharge into the ground (infiltration); or where not reasonably practicable,
2. Discharge to a surface waterbody; or where not reasonably practicable,
3. Discharge to a surface water sewer, highway drain, or another drainage system; or where not reasonably practicable,
4. Discharge to a combined sewer. (Subject to Sewerage Undertaker carrying out capacity evaluation)

Having reviewed the applicant's current information as to proposed surface water disposal for its development, please note that discharge to the public combined sewerage network is not an acceptable proposed method of disposal, in the absence of clear evidence to demonstrate

why the preferred methods listed within the Run-off Destination Hierarchy have been discounted by the applicant.

Environment Agency:

No comments received.

Devon County Council Ecology:

No objection. There will be no impact to the European site as part of this application. All potential impacts have been screened out.

Police Designing Out Crime Officer:

No objection subject to an appropriate level of parking to avoid disputes and lighting of dark areas.

Fire Safety Officer:

No objection. As the proposal will be subject to Building Regulations and the Regulatory Reform (Fire Safety) Order 2005, a statutory consultation will be undertaken between the Building Control Body and the Fire Authority.

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

Torbay Council's Highways Engineer:

The following information is required:

- Site access needs to be more clearly demonstrated on the site plan with visibility splays shown;
- Swept path analysis for a car accessing and egressing the car park is required;
- Details on disabled parking should be provided; and
- Outline of a refuse management plan is required.

Torbay Council Community Safety Team:

No objection subject to the inclusion of a condition requiring a Construction Management Plan.

Historic England:

Concerns on heritage grounds

Significance

The significance of 48-50 The Terrace, and of The Terrace as a whole, is described in our previous letter dated 20 October 2022, which this letter should be read in accordance with. I would note that the front elevation of the building is by far the most prominent and is central to the significance of the building.

Impact

The revised drawings show the retention with alterations of the rear building to Montpellier Road, and a minor revision to the treatment of the proposed roof extension.

Given that the significance of the building lies primarily in the front elevation, ensuring a full, scholarly restoration of the front elevation should be a high priority. Any trade-offs necessary in order to attain this should be made at the rear of the site.

A full restoration of the front elevation of 48-50 would include; restoration of the segmental-headed shape of the top of the second floor window openings to No. 50; removal of the projecting moulded sill band at second floor level, which is not original, and the installation of

flat-fronted projecting stone sills like most of the windows in the terrace retain; removal of the prominent downpipe in the middle of the façade of No. 50; replacement of the existing windows to the first floor of No. 50 with six over six sashes (the sills of all five windows should remain at the level of the existing windows, because this is the original first floor sill level of the whole terrace); similarly the raising of the first floor sills of No. 48 to the original level; the restoration of the window and door openings at ground floor level of No. 50 to their original form, with semi-circular recessed arches; the restoration of a central door and windows at ground floor level of No. 50 to the original designs; making good of the railings to reflect the removal of the left hand doorway to No. 50; replacing the windows of the two outer attic dormers with timber ones of a suitable design, and finally returning the central dormer to its historic form to match the other two. The original semi-circular ground floor windows and door opening are shown clearly in these two historic images.

Some of these changes are included in the application, but not all are, and the detailing of the proposed new central doorway does not match the historic photos. This should be revised, so that all changes made to the front elevation are in accord with the original design.

In terms of the treatment of the attic roof of the building, the front slope is an integral part of the front elevation and is prominent in long views, of which there are many of this landmark building in this hilly town. What the list description rightly describes as 'some unfortunate attic additions' have already been made to Nos. 46-48 and 52-54. These have caused harm by eroding the unity, coherence and proportions of the roof of the terrace, originally characterised by a low slate pitched roof punctuated by a regular rhythm of small arched dormers and party wall parapets with chimneystacks between each house, and by looming over what was formerly a crisp, clean line between the cornice and the skyline when viewed from the street below.

This harm would be exacerbated by adding another attic extension to No.50, with a slightly higher ridge and extending upwards at a vertical angle from behind the cornice. The lack of symmetry in the attic extension would jar in this very symmetrical, classical house, and the large areas of glazing would be disproportionately sized and would make the roof extension more prominent. The setback for the roof terrace would be visually disruptive and would allow the space to be populated with domestic clutter, planters, barbeques etc, causing further visual disruption. The proposed glazed balustrade would be very prominent in certain lighting conditions because of its reflectivity, and would be a discordant addition, causing a significant degree of harm. While it will be for your Authority to judge the overall balance of harm, Historic England suggests that the extensive glazing proposed at attic level and on the parapet would cause gratuitous harm that has not been adequately justified.

Recommendation

Historic England has concerns regarding the applications on heritage grounds addressed in order for the applications to meet the requirements of paragraphs 200, 202 & 206 of the NPPF.

Waste:

No objection.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of Development
2. Design and Visual Impact
3. Impact on heritage assets

1. Principle of Development

The two grade II listed buildings comprise former offices in the built-up area, in a Community Investment Area, the Torquay Harbour Conservation Area and within the defined Town

Centre. The principle of a change of use from vacant office to residential apartments is considered acceptable, for the reasons below.

Policies SS12 and H1 of the Local Plan supports proposals for new homes in the built-up area, subject to wider policy consistency, and promotes the re-use of brownfield land and the need to provide homes and meet housing needs. In addition, Policy TC1 of the Local Plan states that housing provision, within town centres not covered by primary or secondary shopping frontages, together with the reuse of underutilised floor space above existing commercial premises as a source of housing supply, will be supported. These policies support the provision of housing where it is sustainable development.

In terms of the Torquay Neighbourhood Plan the central policy guidance re principle is contained within Policy TT2 (Change of Use in Conservation Areas and Listed Buildings), which offers that within designated Conservation Areas the change of use, where proposals require consent, will be supported in principle (subject to other policies in this Plan) to ensure a sound future for such heritage assets and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

For the reasons above the principle of the change of use is aligned with the aspirations of the Development Plan.

In terms of national guidance, the NPPF seeks to support the vitality of town centres, confirming that planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. It recognises, in Paragraph 86, that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.

It is also relevant to note that the Council is currently falling short of a 3 and 5-year housing land supply and that the proposal would make a moderate contribution to this shortfall being addressed as a windfall brownfield development. The application of the 'tilted balance' in favour of sustainable development is a material policy consideration as identified by the NPPF. However, as cited above, the principle of residential is supported for the reasons stated. The 'tilted balance' guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. In regard to applying the 'tilted balance' it is relevant to note that there are heritage considerations due to the Conservation Area setting and works to listed buildings. As concluded within this report there are no heritage reasons that provide clear reason for refusing the application, so the 'tilted balance' is considered applicable. This guides to granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF. Notwithstanding the NPPF and the 'tilted balance' guidance, this does not displace the primacy of the Development Plan.

As stated for the reasons above the principle of the change of use is aligned with the Development Plan and is hence supported, having regard for the aims and objectives of Policies SS12, H1, TC1 and TT2 of the Development Plan.

2. Design and Visual Impact

The NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve (Para 126). It also states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design (Para 134). In terms of the Development Plan Policy TH8 'Established architecture' is the key policy tool within the Torquay Neighbourhood Plan and cites that development must be of good quality

design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings. Policy TT2 (Change of Use in Conservation Areas and Listed Buildings), offers that the change of use will be supported in principle to ensure a sound future for such heritage assets, and wherever possible unsympathetic development of the past is removed or altered to enhance the historic environment.

In terms of further advice within the Development Plan Policy DE1 of the Local Plan outlines the importance of good design and is also a key policy tool in design terms.

The local topography, urban and historic contexts are complex, each has individual constraints especially when taken as a whole. Having considered both local and national policy guidance the design is considered to provide an acceptable form of development within the context. The key components of the assessment that inform this judgment are outlined below.

The proposed conversion, demolition and extension to this sensitive site are considered acceptable in the round. Following a range of discussions and consultation responses during the application process the design has been revised as set out previously in this report. In summary:

- An internal lift has been omitted from no. 50 due to the loss of historic fabric of the building and the level of harm.
- An internal car lift and below ground car park have been omitted due to the level of harm caused to the below ground structure and the level of complication required in terms of engineering works.
- No. 5 Montpellier Road is no longer proposed to be demolished and would be reused to form new site entrance, bin and bike store at street level and form two flats at first floor level. The scale of the potential building was considered overly dominant in the streetscene and would have had an impact on the setting of the listed buildings.
- The flat, clad square roof design has been omitted. A more appropriate slate mansard roof is now proposed.
- The large central large, glazed window has been amended to create a curved dormer roof.
- The rear extensions have been refined and reduced in scale due to the impact on the existing buildings.
- A range of additional information regarding drainage, movement, parking and landscaping has been provided.
- The number of units have been reduced following the above amendments from 13 flats to 12.

Layout

In terms of the basic layout, there is sufficient space around the buildings and within the development site to provide adequate landscaping, storage parking and present an acceptable setting for the development, that would not cramp or overdevelop the site.

The internal layouts of 48-50 The Terrace has gone through a number of design refinements and are now supported by Officers.

A hard surfaced, landscaped car park is proposed between the main building and no. 5 Montpellier Road. Gated access is provided through the building with two flats above. This first floor level takes into consideration the change in height between The Terrace and Montpellier Road. The internal and external layouts are therefore considered acceptable. Further highway matters and access are dealt with later in this report.

Appearance

In terms of the material palette, it is proposed that high quality, traditional materials found within the existing mid-19th century buildings features would be used. The existing main façade facing The Terrace comprises timber sashes and concrete painted window cills, carved and square head openings with wrought iron balustrades.

No. 48 retains a well preserved main entrance with original six panel doors and a glazed decorative fan light. It is proposed to return no. 50 to its original Georgian appearance, including restoration of the original central entrance. The proposed entrance would be a timber six panel door, with glazed decorative fan light on top. The new entrance itself would be decorated with Georgian pilasters, decorative consoles and projecting cornice on top. All doors and windows would match existing and walls finished in painted render, to match front façade. Existing Victorian windows in no.50 would be removed and reinstated to the original Georgian style; 12-pane sash windows at the ground floor and 15-pane sash windows at the first floor. As part of this process, it is proposed to lower the window cills down at the first floor, to match no.48. The second floor would receive new three over six pane sash windows. In total, the existing front and rear façade of no.'s 48 and 50 would have new wooden sash windows and solid wood doors, to match existing, concrete window cills painted white, metal rainwater goods and painted white render finish.

The impact on heritage assets is dealt with in the section below and again in the accompanying planning application Officer report. The proposed central dormer with its gently curved roof and simple vertical glazing is considered an enhancement compared to the current flat roof dormer with uPVC doors and windows which introduces incongruous features into the roofscape. That said, a bi-fold door has been included within the central dormer. Historic England clearly required the third floor to be redesigned and this been achieved to an appropriate level of detail. A condition has been suggested to further refine the door design and ensure a bi-fold door do not create a large opening at this high level, puncturing the proposed roofscape. Three simple doors are considered appropriate, and a suggested condition would ensure these details are agreed to the satisfaction of Officers. The mansard roof means there is limited space to use as a terrace. A further suitable condition has also been suggested to ensure that no domestic paraphernalia can be stored on the terrace.

Historic England comments have been considered and balanced with the full range of other significant improvements to the fabric of the building and the public benefit of bringing this vacant building back into a positive use. The repair and reinstatement work as proposed make sufficient steps to ensure the building would be fully used and to a high standard. These details are therefore considered acceptable subject to conditions.

No. 5 Montpellier Road would be refurbished with gated access provided through at street level. The walls would be of render, natural stone and slate. The proposed doors and windows are shown as aluminium in the new built elements which is considered acceptable. Given the significance of the building a condition has been suggested to ensure the details are acceptable. Historic England comments were focused on the restoration of the front elevation facing The Terrace. The retention of this existing building, including improving material palette is therefore considered acceptable.

When considering policy guidance, the proposal is deemed to be in accordance with Policies DE1, SS10 and HE1 of the Local Plan, TH8 of the Torquay Neighbourhood Plan, and is aligned with the guidance contained in the NPPF in terms of good design and heritage assets.

3. Impact on Heritage Assets

The titled balance requires an assessment of the NPPF policies that protect heritage assets. NPPF (2021) provides guidance as to when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should

be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 199). The NPPF further states that any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification (Para 200). It guides that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use (Para 202).

In terms of the Local Development Plan, it is guided that development proposals should have special regard to the desirability of preserving heritage assets and their setting (Policies SS10 and HE1 of the Local Plan). This is aligned with the duties for decisions as required by section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, where decisions shall have special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

The applications are supported by a range of statements of heritage significance and additional supporting assessments. Issues are detailed in the accompanying listed building consent application.

In terms of significance, the curved form of The Terrace is highly visible from much of Torquay and beyond and is particularly grand when viewed from across the harbour. The grade II listed terrace of nine houses was constructed in 1811, designed by Jacob Harvey, the first of Sir Lawrence Palk's interventions into the architecture and landscaping of the town. The white stucco, continuous railed balconies and rusticated, round-headed doorways with keystones create an impressive aspect, and whilst some of the qualities have been eroded by insensitive alterations, the overall impression is of a well maintained and attractive group.

The Terrace forms an integral part of the Torquay Harbour Conservation Area, particularly given the local topography and close proximity to nearby significant heritage assets. The prominence and significance of no. 50 is expressed in the five bays rather than just three bays, and by being set forward by approximately 300mm from the building line of the rest of The Terrace, also by its larger second floor windows. Unique features such as the elliptical stair with lantern also demonstrate its planned higher status.

In terms of the surrounding heritage assets, to the north west lies St. John the Evangelist parish church, listed grade I, a Gothic Revival church built between 1861 – 1873. Unity Church listed grade II lies to the north east. St John's House, the only 19th century dwelling remains on Montpellier Road next to St Johns Church to the north west. The apartment block directly to the north of the site, opposite no. 5 Montpellier Road, is identified within the Conservation Area Appraisal as being key buildings and building groups of architectural importance or which make a significant contribution to the townscape. It is therefore clear that any change to the proposed sites have required careful analysis and consideration.

In terms of internal alterations, No. 48 has been conserved at a higher level than no. 50 and its features are continued to be preserved in the current proposal, notably the existing staircase. No. 50 would be restored through the reinstatement of its entrance hall, elliptical stair, recreating the original room forms, removing modern partitions along with the conservation of its key period features including cornicing, fireplaces and joinery. The entire 20th century office alterations and features would be removed, and any issues of repair and water ingress resolved. The internal alterations are considered acceptable and make a positive contribution to the significance of both buildings.

Historic England have provided two sets of comments, the first of which was supportive of the proposed reinstatement of many of the elements which have been lost or damaged through

the previous office use, particularly in no. 50. These include the reinstatement of multi-paned sash windows, the reinsertion of the central elliptical stair and a central doorway. Conditions were suggested to ensure the level of detail was sufficient to reflect the significance of the buildings. They go on to raise concerns about the scale of the roof extension and symmetry of the fenestration. As discussed previously, these details were noted by the applicant and the application details refined. The roof has been redesigned to create a slate covered mansard and the windows positioned centrally to continue the established rhythm in the adjoining terraces. The decision on balancing the level of harm between the public benefits of bringing back the property into residential use was noted to be down to Officers. The submission of additional information and amended plans appears to achieve that balance and Officers consider the proposal acceptable.

A second response from Historic England set out a range of comments suggesting the full restoration of the front elevation. A balance has again been struck and Officers are satisfied with the level of detail and range of repair and reinstatement works. The impact on the setting of the surrounding designated heritage assets is considered to be positive. The restoration of the fenestration to the front, managed change to the roof and use of appropriate materials ensures that the proposal would not unduly impact the architectural or historic quality and integrity of the surrounding heritage assets and their setting.

In terms of detail, the second range of comments have been fully considered. In summary this has been achieved by limiting the increase in height of the roof (to enable head height to be achieved), creating a slate mansard roof (rather than vertical, box roof extension), creating symmetry within the roof slope (through the fenestration position) and reduction in the amount of glazing.

The full window restoration, blocking up of the existing front door to No. 50 and the recreation of the central front doorway is clarified within the Heritage Statement based on historic photographs and internal evidence. Limited fabric would be lost through the fenestration works or recreation of the central front doorway. The proposed windows would match the remainder of Higher Terrace and the recreation of the central front doorway represents an enhancement to the front elevation and in turn, setting of listed buildings and the Torquay Harbour Conservation Area.

The key issues have also been resolved by the removal of the glass balustrade and proposed roof terrace. A condition has been suggested to control the use of the narrow terrace to preclude any domestic roof paraphernalia. These details are now considered acceptable by Officers and find a balance with the more recent concerns by Historic England. Conditions have been included to secure further details to ensure the quality of the development.

The proposal is therefore considered to be in accordance with Policies SS10 and HE1 of the Local Plan, Policy TH10 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

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

Sustainability

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

The Economic Role

Housing provision is a driver of economic growth and there would be economic benefits of bringing the site into use and into a residential use. Aside the longer-term economic benefits of local spend from occupants the construction phase would also create jobs within the local economy. There are no adverse economic impacts that would arise from this development. The building has not been used for approximately four years and the provision of 12 households in the town centre will help town centre vitality and viability. In respect of the economic element of sustainable development the balance is in favour of the development.

The Social Role

The principle social benefit of the proposed development is that it would help deliver good-sized units, in one, two and three beds, that could be occupied by singles, couples or small families, helping aspirations towards mixed and balanced communities. This would be in an area that would be well located for shops, services and job opportunities for occupants. In respect of the social element of sustainable development the balance is in favour of the development.

The Environmental role

The environmental benefits are considered positive. It provides a long-term use for a building that has embodied energy within its fabric and the sustainable central location provides lifestyle opportunity that may be less reliant on cars and reduces need for travel. In respect of the environmental element of sustainable development the balance is in favour of the development.

Sustainability Conclusion

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

Local Finance Considerations

CIL

Not applicable for listed building consent works. For information, based on the submitted CIL form as part of the accompanying planning application, which provides an indication, subject to formal determination, that the proposal, which is stated as delivering 1346 sqm of CIL liable floorspace, is likely to deliver circa £40,380 in CIL payments.

S106

Site Acceptability Matters: None. Not applicable to Listed Building Consent.

Affordable Housing: Not applicable for listed building consent works or for this scale of development on a brownfield site.

Sustainable Development Matters: N/A as CIL liable development. Not applicable to LBC elements.

S106 legal agreement hence not required. No obligations necessary to make the development acceptable.

EIA/HRA

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

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

Planning Balance

The planning assessment considers the heritage policy and material considerations in detail. It is considered that the scheme provides much needed housing and sensitively convert the existing listed buildings would produce a positive impact overall. It is also noted that it will trigger a CIL payment of approximately £40,380.

Conclusions and Reasons for Decision

The various works of repair and alterations are acceptable from a policy perspective and will provide a suitable use for the location in what are currently a vacant pair of office buildings and deliver much needed housing.

The proposal will provide an acceptable standard of accommodation when considered in the round and in the location is very sustainable with easy access to shops, facilities, employment opportunities, sustainable transport modes, and local parks.

Subject to appropriate Conditions the proposal is recommended for approval.

The proposed development is considered to represent sustainable development and is acceptable, having regard to the Local Plan, the Torquay Neighbourhood Plan, the NPPF, and all other material considerations for the reasons stated within this report.

Officer Recommendation

Approval: Subject to the conditions as outlined.

Conditions

1. External improvements

Unless an alternative phasing plan is agreed, the external works to the front elevation will be completed prior to the occupation of 48-50 The Terrace.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

2. Detailed Design

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

- (i) sedum roofs
- (ii) solar panels
- (iii) balcony and terrace enclosures
- (iv) gate to no. 5 Montpellier Road
- (v) structural works to support parking deck
- (vi) attenuation tank design, fixing and associated pipework

The development shall proceed fully in accordance with the approved detailed design elements on the submitted and approved plans (including the approved reveal depths).

Reason:

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

3. Amended plan details

Notwithstanding the submitted details, prior to the installation of new glazing including windows and doors within the roof of no. 50, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Three individual doors with frames between each door.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason: To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Torquay Neighbourhood Plan.

4. Works of making good

All new external works and finishes and works of making good to the retained fabric, shall match the existing original work adjacent in respect of methods, detailed execution and finished appearance unless otherwise approved in writing by the Local Planning Authority.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of the Torquay Neighbourhood Plan.

5. Roof material sample

Prior to the installation of any roof covering a sample of the roofing material proposed shall be submitted and approved in writing by the Local Planning Authority.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

6. Window and doors details

Notwithstanding the approved plans and details, prior to the installation of new windows and doors, the following shall be submitted to and approved in writing by the Local Planning Authority:

- Broken sections at a scale of 1:1 and elevations at a scale of 1:10, of all new windows and doors
- Reveal sections, drawn to a scale of 1:1-1:10
- Sill sections, drawn to a scale of 1:1-1:10
- Dressed stonework, drawn to a scale of 1:1-1:10

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason:

To safeguard features of special architectural and historical interest and preserve the character and appearance of the building in accordance with Policy HE1 of the of the Adopted Torbay Local Plan 2012-2030 and TH10 of the Torquay Neighbourhood Plan.

7. External render

Prior to the installation of external render materials, sample panel(s) of all new render shall be provided on site showing the proposed render mix, colour and final surface texture, and the materials and methods shall have been submitted and approved in writing by the Local Planning Authority. The approved sample panel(s) shall be retained on site until the work is completed.

The development shall then proceed in full accordance with the approved details and shall be retained as such thereafter.

Reason:

In the interest of visual amenity and in accordance with Policy DE1 of the Adopted Torbay Local Plan 2012-2030 and Policy TH10 of Torquay Neighbourhood Plan.

Informative(s)

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

Relevant Policies

Local Plan

DE1 – Design
DE3 – Development Amenity
ES1 - Energy
TA2 – Development Access
TA3 – Parking Requirements
ER1 – Flood Risk
ER2 – Water Management.
NC1 – Biodiversity and Geodiversity
HE1 – Listed Buildings
SS3 – Presumption in favour of Sustainable Development
SS4 – The Economy and Employment
SS10 – Conservation and the Historic Environment
SS11 – Sustainable Communities
SS14 - Low carbon development and adaptation to climate change
C4 – Trees, hedgerows and natural landscape features

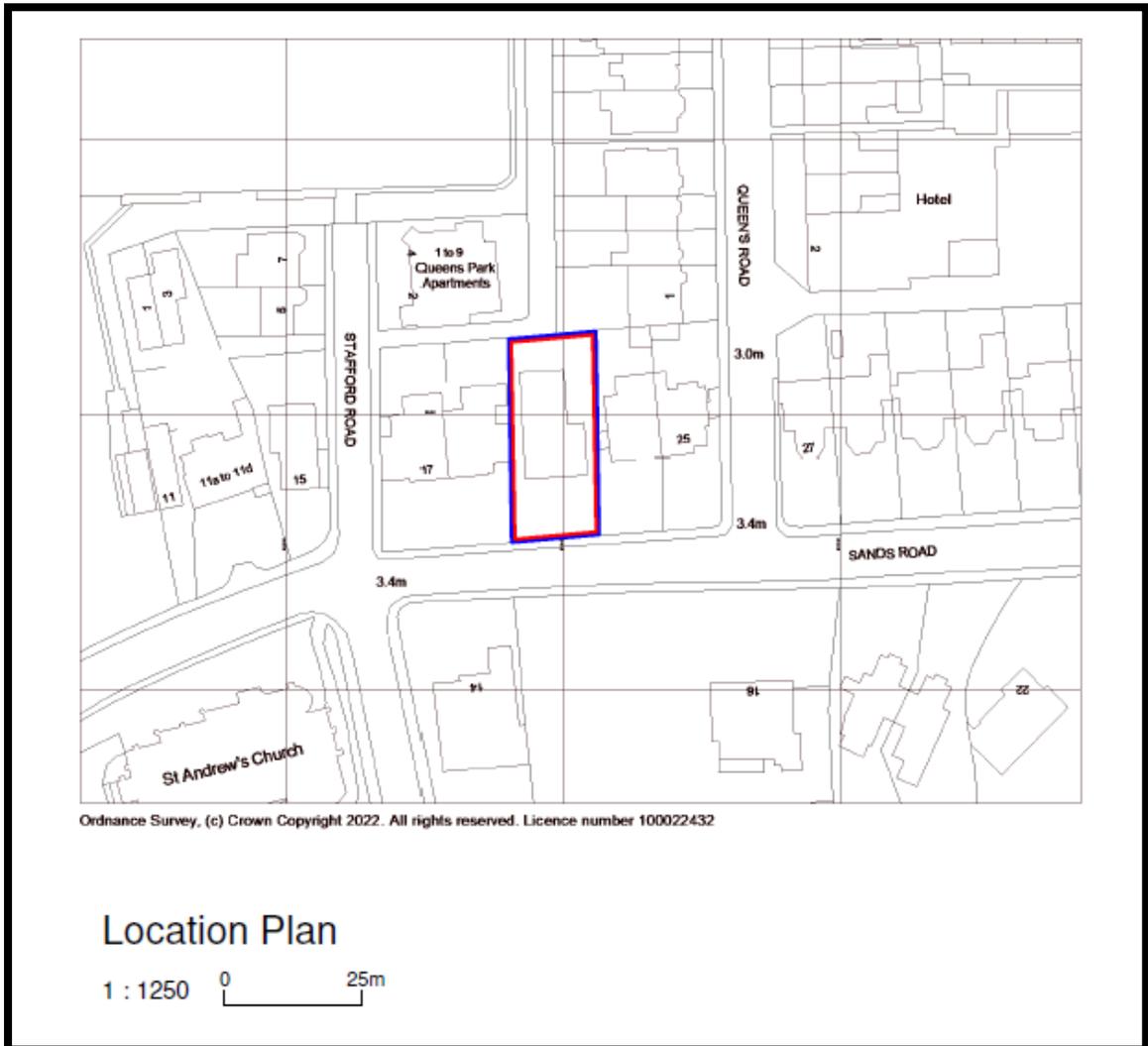
Torquay Neighbourhood Plan

TH8 – Established Architecture
TH9 – Parking Facilities
THW5 – Access to sustainable Transport
TE5 – Protected species habitats and biodiversity
TH10 – Protection of the Historic Built Environment
TS1 – Sustainable Development
TS4 – Support for Brownfield and Greenfield development
TT2 – Change of use in Conservation Areas and Listed Buildings

TORBAY COUNCIL

Application Site Address	21 Sands Road, Paignton, TQ4 6EG
Proposal	Conversion of hotel to 10x1 bedroom supported flats (C2 use), shared facilities and office spaces.
Wards	Roundham with Hyde
Application Number	P/2023/0318
Applicant	Westward Group
Agent	Tetlow King Planning
Date Application Valid	04.04.2023
Decision Due Date	30.06.2023
Extension of Time Date	TBC
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined at the end of the report with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency;</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>

Location Plan



Site Details

The site is 21 Sands Road, Paignton which is a detached property, its last use was as a B&B/Hotel known as Three Palms.

The site is within a Community Investment Area and is within the Paignton Neighbourhood Plan Core Tourism Investment Area but is outside of the Local Plan Core Tourism Investment Area allocation.

The site is within 15m of the Roundham and Paignton Harbour Conservation Area which is to the south of the site and is within Flood Zone 3.

The site is located on the northern side of Sands Road between the junctions with Queens Road and Stafford Road. The property has been extended and altered over time.

Access to the site is primarily via a private driveway on the south (front) of the site, with a secondary entrance to an access land to the north (rear) of the site.

Surrounding uses are a mix of residential and holiday accommodation.

Detailed Proposals

Full planning permission is sought to utilise the existing built form of the building and subdivide it into 10x1-bedroom self-contained flats. This would include, office space for staff, communal toilet for residents, staff, and visitors and shared kitchen/dining space for staff and residents for client cooking sessions, group work and communal eating.

Externally, a fire escape staircase is proposed to the rear of the building and the existing hotel signage will be removed. The proposal also includes improvements to the rear amenity space.

Vehicular access will be unchanged and will continue to be via Sands Road.

The property would be run by Westward Housing Group and the proposed accommodation will offer support services to vulnerable persons who have been referred by Torbay & South Devon NHS Trust (Specialist Mental Health Team) and Torbay Adult Mental Health Social Care Team. The service would be delivered as part of the Supported Living Framework under which they are contracted by the council and NHS Foundation trust who would ensure referrals to the service.

The client group category is low to medium mental health needs. It is anticipated the length of stay for residents would be an average timescale of 18-24 months, reflecting Westward Housing's other mental health services that provide the same structure and support. This period gives residents and support staff time to work

together on the support needs identified and the skills required to move on to more independent accommodation.

Policy Context

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

Development Plan

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Policy Guidance (PPG)
- Healthy Torbay SPD
- 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.

Summary of Consultation Responses

Paignton Neighbourhood Plan Forum - No response received.

Torbay Council Drainage Engineer – The applicant has correctly identified that the proposed development lies within flood zone 3.

Where sites are identified within Flood Zone 3 the developer is expected to submit a site specific flood risk assessment. The flood risk assessment must demonstrate that the development will be safe from all sources of flooding without increasing flood risk elsewhere and where possible will reduce flood risk overall. Within the site specific

flood risk assessment I would have expected to see the sources and predicted depth of flooding being identified, the proposed finished floor levels for the ground floor, details of safe access and egress routes, details about what to do in an emergency including safe refuges, details of flood mitigation measures being proposed including an emergency flood plan for all buildings on the site. In addition, the flood risk assessment should identify that the owner/manager of the building will be signed up to the Environment Agency's coastal flood warning system.

The submitted flood risk assessment addresses the issues raised above.

It should be noted that existing bedrooms are located on the ground floor of this property and no new bedrooms are being proposed on the ground floor of the development, Following conversion, the existing bedrooms will have access to upper floor levels within the building should a flood event occur.

Based on the above comments, providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, I have no objections on drainage grounds to planning permission being granted for this development

Environment Agency – No objection to the proposed development subject to the inclusion of a condition on any permission granted which secures the implementation of the mitigation measures included within the Flood Risk Assessment (FRA).

Planning Policy - *Use of the development.*

As set out by the Rectory Homes case, Class C2 units laid out as apartments still constitute "housing" and weight should be given to it in addressing the housing crisis; particularly if it provides additional benefits such as supported or specialist accommodation serving the local community. In my view, the provision of dwellings (even though not within Class C3) does mean that the Presumption in Favour of Sustainable Development in paragraph 11 of the NPPF is engaged, and that the council should approve the application unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits. As an urban brownfield site, within easy reach of the town centre, sustainable transport and other facilities it

scores well for housing under Policies SS12, SS13 and H1 of the Local Plan, and PNP1 and 13 of the Neighbourhood Plan.

Impact on Deprivation

Tetlow King's accompanying statement indicate that the building will be used for 10 supported flats for people with mental health issues, with shared facilities and office areas. 10 dwellings is below the threshold for affordable housing in Policy H2 of the Local Plan; but given the pressing need for affordable housing the provision of above policy level of affordable housing is a significant benefit (as referenced in Policy H2). We will need to ensure how this is managed and retained as affordable housing in perpetuity because (1) it may be material to granting planning permission and (2) is relevant if "sustainable development" type planning obligations are waived on the basis of the use being affordable housing. A similar principle would potentially apply if the applicant wishes to claim Social Housing CIL Exemption.

"Three Palms" 21 Sands Road is within a Community Investment Area, and Policy SS11 of the Local Plan is relevant. This policy contains clauses which could pull in different directions. For example the proposal will help promote social inclusion, and seek to eliminate exclusion based on access to housing (etc.)(11.4). It will also provide accommodation for vulnerable people in a well-connected, accessible and safe community (11.7). I acknowledge that concerns have been raised in objections in relation to potential anti-social behaviour (11.5). However, Community Safety have raised no objections to the proposal. Tetlow King's statement outlines Westward's management regime, which should help address amenity concerns relating to the use. Any permission should be conditioned to operate with such management practices.

It's worth noting that significant parts of Torbay's town centres and "inner urban wards" face deprivation issues common to many coastal towns, and other potential locations for supported accommodation close to town centre facilities may face similar deprivation issues. The provision of supported living accommodation for people with care needs serves an important health function. The supporting information indicates that residents will be referred by Torbay & South Devon NHS Trust (Specialist Mental Health Team) and Torbay Adult Mental Health Social Care

Team, and that there is a shortage of such accommodation. On the basis that residents are existing Torbay residents, the proposal will help reduce overall deprivation within Torbay, which is a benefit in terms of Policy SS11.

I note that if vacancies are not filled, apartments will be opened up to other providers, including Devon partnership NHS Trust. Effectively this could result in more affluent areas of Devon accommodating vulnerable people within Torbay, at a time when Torbay is unable to meet its own needs. There needs to be a wider debate about how the sub-regional housing market operates in terms of how both market, affordable and specialist accommodation is met in Torbay and the adjoining areas. This is beyond the scope of this application. However at recent application P/2023/0028 at 7-9 Riviera, Paignton, which has some similar characteristics to the present application, the application was conditioned to serve (existing) residents of Torbay. In my view it would be appropriate to condition the current application similarly. Whilst referrals from outside Torbay may be appropriate, they are part of a wider debate about how sub-regional housing needs are met and funded.

The proposal is not for an HMO, but for self-contained flats with some communal facilities and office space. An HMO proposal would raise other planning issues but would require planning permission as there is no permitted development to change from Class C2 to C4. However, restricting the use to apartments as described in the application would remove doubt about potential HMO use (especially noting the potential for blurred lines between Class C2 and C3b in practice).

Impact on Tourism

The application results in the loss of a hotel, and therefore Policy TO2 of the Adopted Torbay Local Plan is relevant. The site is not within a Core Tourism Investment Area in the Local Plan, and Policy TO2 indicates that change of use of holiday accommodation will be allowed where the holiday character and range of facilities are not undermined and one or more of the following apply: The site is of limited significance in term of its holiday setting, views and facilities; There is no prospect of the site being used for tourism or related purposes; OR The change of use would bring regeneration or other benefits that outweigh the loss of holiday accommodation. Policy TO2 goes on to seek restoration of buildings to their original

historic form by the removal of “unsightly features, signage, clutter and extensions relating to the holiday accommodation use.

Conversely the Paignton Neighbourhood Plan includes a more extensive Core Tourism Investment Area that does include 21 Sands Road. Policy PNP14 (b) indicates that within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function, and; c) Applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area.

I note that the Planning, Design and Access Statement has addressed compliance with the development plan tourism policies. Sands Road runs back from the Esplanade, and although within easy walking distance of the seafront is somewhat removed from the heart of Paignton’s key tourism area. The hotel is of a modest size, with 15 bedrooms. Although these are ensuite and there is a dining room and lounge, the hotel does not provide facilities that are unavailable elsewhere in the area. The building appears to be a late C19th or early C20th detached house that has had extensive changes including an additional storey and full width porch. The front garden has been entirely turned over to hard standing. There have been major new hotels recently opened on the site of the former park Hotel and Lighthouse comprising an additional 280 beds. The Destination Management Plan for Torbay, prepared in partnership with the English Riviera BID identifies the need to reduce the stock of serviced accommodation by 2% by 2027, with a need to reduce “redundant stock”. I take this to mean that older, formerly residential, properties in use as small hotels/guest houses should be allowed to revert to residential use as the stock is replaced by modern purpose built accommodation.

On the basis of the above, I understand that there are concerns from nearby businesses and residents about the use. There is at least some conflict with Policy PNP14 of the Neighbourhood Plan, as it has not been demonstrated that there is no “reasonable prospect” of the hotel operating as a tourism business. However, the

area can be said to be of relatively limited significance in terms of its holiday setting, and a need to reduce the stock of older style serviced accommodation has been identified, particularly where new accommodation in more central locations has recently opened. On that basis I would suggest that the proposal is compliant with Local Plan Policy TO2, and that the conflict with PNP14 is limited.

Both TO2 and PNP14 seek restoration of buildings by removal of “unsightly” features. Although not within a Conservation Area, Sands Road abuts the Roundham and Paignton Harbour Conservation Area. As far as I can see, the proposal makes no provision for improvements to the building’s visual appearance or setting, beyond removal of signage.

Flooding and Climate Change

Comments on climate change, flooding and the impact of development are largely within the remit of Dave Stewart in Drainage. However, as part of the Local Plan evidence base, an updated Sewer Capacity Assessment has been carried out by Waterco. This has confirmed a pressing need to separate surface water and foul from the combined sewer. Flood risk and water management are critical infrastructure issues affecting Torbay’s capacity to deliver new development, and the capacity of the urban area. The existing policy framework sets out a robust approach to flood risk and sustainable water management (see Local Plan Policies ER1, ER2, W5 and Neighbourhood Plan Policy PNP1(i)). Torbay is a Critical Drainage Area and the council has declared a Climate Emergency. The indications from the Sewer Capacity modelling and responses from SWW, Environment Agency and Natural England all indicate that the council needs to double down on seeking nature based solutions to flooding and climate change issues.

Flood Risk. The previous 2010 Strategic Flood Risk Assessment has identified the site as being within Flood Zone 3B. A new SFRA is being prepared, which I understand identifies the area as being within Flood zone 3A, on the basis that the watercourse is culverted and not a functional floodplain. The area is still within Flood Risk Zone 3. Footnote 56 of the NPPF indicates that changes of use do not have to meet the sequential or exceptions test but should still meet the requirements of site-specific flood risk assessments. The flood risk overall category of a C2 use is “more

vulnerable” which is no change from a hotel. However, basement dwellings are classed as “highly vulnerable”. The “ground floor” of 21 Sands Road is set below the car park level. The PPG 7-052-20220825 indicates that changes of use can increase the vulnerability of development or result in occupation by people who are more vulnerable than previous occupiers/users from risk of flooding. Table 2 in the PPG indicates that highly vulnerable uses, which include basement flats should not be permitted in Flood zone 3.

Both Local Plan Policy ER1 and Neighbourhood Plan Policy PNP13(c) resist basement flats in such locations.

The proposal is supported by a flood risk assessment by True Consulting Engineers. This indicates that the “ground floor” is at risk of inundation but recommends resilience measures. These will not stop the ground floor area from flooding, but require residents to move themselves and their belongings upstairs. I note that the Environment Agency has not objected to the proposal subject to these resilience measures being put in place, and that the Drainage Engineer raised no objection on 9th May 2023. I am also aware that there is existing “basement” accommodation on the ground floor. Nevertheless, I am uncomfortable with the proposal that puts vulnerable people into what is effectively basement sleeping accommodation, with likely all year round occupation. This only relates to the “basement” sleeping accommodation rather than the use of the building as a whole. Please can we clarify with Dave Stewart and the Environment Agency that they are satisfied that the ground floor flats are safe, taking into account the likely vulnerabilities of the proposed residents.

A separate issue relates to the need to reduce water run-off from impermeable surfaces into shared sewers in order to avoid the system being overwhelmed by severe weather events. It is disappointing that the proposal does little to reduce water run-off from the current impermeable surface, but continues to discharge surface water into the shared sewers. Extending permeable areas is likely to be at the expense of parking, but would be strongly supported from a climate resilience and water management point of view. It would also be a restoration feature

supported by TO2 and PNP14, particularly since the opposite (South) side of Sands Road is within Roundham and Paignton Harbour Conservation Area.

I appreciate that this point would apply to many other urban developments. But the council has declared a Climate Emergency, and there is clear evidence of risks arising from the extent of water discharging into existing shared sewers from the existing built form. From a policy point of view, we need to move away from applications being able to tick the “drainage to existing sewers” box for changes of use, especially where there appears to be opportunities to improve permeability on the site.

The Planning Balance from a Policy Perspective

I recognise that this application highlights issues of wider significance than a proposal for 10 flats would usually do. The provision of 10 supported affordable units is a substantial planning benefit, and I hope that the scheme can be supported. In my view the creation of additional permeable and sustainable drainage measures should be sought. I remain concerned about the ground floor sleeping accommodation in a Flood Risk 3 area. This could constitute a clear reason for refusal under Paragraph 11 (d)(i) of the NPPF if the relevant bodies are not satisfied that the development can be made safe for its lifetime. I hope that it does not come to that, and that an acceptable solution can be found to those issues.

Affordable Housing – No objection

Waste - Further information is needed about the size of the area allocated for storage of recycling and waste.

Community Safety - No objection

Police - No objection to the proposal, the use of CCTV is welcomed, advice on designing out crime, fear of crime and anti-social behaviour perspective has been provided.

Summary of Representations

Approximately 38 objections were received in which the following matters were raised:

- Loss of a tourism facility
- Impact on the wider tourism character of the CTIA as allocated by the Paignton Neighbourhood Plan
- Impact on the neighbouring tourism businesses
- Increase in anti-social behaviour, noise, nuisance and crime in the hours where the site is not manned.
- Object to HMO's in close proximity to tourist accommodation
- Concerns over management of site
- Health and safety and safeguarding issues
- Drain on emergency services
- The current facility is viable as holiday accommodation

Relevant Planning History

P/2022/0972 - Conversion of hotel to 10 x 1 bedroom supported flats (C2 use), shared facilities and office spaces. Refused 15.12.2022.

This application was refused largely on technical grounds with regards to lack of information on the impact on tourism, site specific flood risk measures, information regarding future occupants and highways information.

Planning Officer Assessment

Section 38(6) of the Planning and Compulsory Purchase Act 2004 places a duty on local planning authorities to determine proposals in accordance with the development plan unless material considerations indicate otherwise. The following key issues have been identified and will be discussed in relation to the relevant development plan policies and material considerations.

1. Principle of Development and Impact on Tourism.
2. Design and Visual Impact.
3. Impact on Residential Amenity.
4. Access, Movement and Parking
5. Ecology and Biodiversity.
6. Drainage and Flood Risk.

- 7. Waste
- 8. Designing out Crime
- 9. Low Carbon Development.

1. Principle of Development and Impact on Tourism

The proposal is for change of use from a hotel/B&B within Use Class C1 to ten self-contained residential units for supported living within Use Class C2.

The proposed accommodation will offer support services to vulnerable persons who have been referred by Torbay & South Devon NHS Trust (Specialist Mental Health Team) and Torbay Adult Mental Health Social Care Team.

The property would be run by Westward Housing Group, the design and access statement advises that it is anticipated the length of stay for residents would be an average timescale of 18-24 months, reflecting Westward Housing's other mental health services that provide the same structure and support.

Four full-time members of staff and one part-time member of staff would be present on the site between the hours of 08:00am and 20:00pm. Outside of the staffed hours of 08:00am-20:00pm, there will be an on-call support rota of staff who will be able to assist and respond to emergencies. Residents will also have access to Westward Housing Group's out of hours emergency maintenance service. For all other emergencies, part of the move-in induction is to ensure clients are aware of and able to use, the appropriate emergency services.

Each self-contained unit will have its own kitchen with cooking facilities and own bathroom. The proposal includes shared kitchen/dining space that staff and residents have access to and this will be used for client cooking sessions, group work and communal eating.

Local Plan Policy SS13 aims to provide additional housing and maintain a five-year supply of deliverable housing sites. Policy SS11 aims to improve the sustainability of existing communities in Torbay, enhance the quality of life for residents and, especially, to close the gap between the most and least disadvantaged

neighbourhoods. Policy H1 seeks to provide a range of homes on allocated and unallocated sites to meet assessed needs and to create mixed, balanced communities with high quality living environments. The proposal would provide needed assisted living accommodation within Torbay and it is, therefore, considered that it would help to maintain a mixed and balanced community within the area and would provide a facility to those disadvantaged within Torbay.

Policies TO1 and TO2 support the tourism sector. Policy TO1 supports the retention of tourist accommodation in sustainable locations with a focus on the Core Tourism Investment Areas (CTIAs). The site is not within the CTIA. Policy TO2 states that outside CTIAs the change of use of holiday accommodation will be allowed where the holiday character and range of facilities are not undermined and one or more of the following apply:

- The site is of limited significance in term of its holiday setting, views and facilities,
- There is no prospect of the site being used for tourism or related purposes OR
- The change of use would bring regeneration or other benefits that outweigh the loss of holiday accommodation.

The Policy goes on to say that proposals for small apartments or HMO's will not be permitted where they would conflict with the tourism character and offer of the Bay. The proposal is not for an HMO, but for self-contained flats with some communal facilities and office space.

The proposal meets the first criteria of Policy TO2 in having limited significance in terms of its holiday setting, views and facilities.

There may be potential for other uses for tourism or related purposes but those are not the subject of a current planning application. The current application is for residential supported living and the change of use would bring benefits in terms of providing additional self-contained residential accommodation. As such, the proposal is considered to meet criteria 3. Moreover, the supporting text for Policy TO2 advises that the 'Turning the Tide for Torbay' Tourism Strategy (2009)' indicates

that, due to a change in the demand for tourism facilities, an oversupply of small and outmoded accommodation will be reduced.

Although outside the Local Plan Core Tourism Investment Area allocation, the site is within the Paignton Neighbourhood Plan Core Tourism Investment Area as such Paignton Neighbourhood Plan Policy PNP14 is relevant. This policy states that;

- a) Houses in Multiple Occupation known as HMO's will not be supported within the Core Tourism Investment Area in accordance with Policy PNP1(f);

- b) Within the Core Tourism Investment Area there will be flexibility to allow change of use from holiday accommodation where it can be evidenced there is no reasonable prospect of continuing use for tourism purposes and the change proposed would support and not detract from the Area's function, and;

- c) Applications for a change from tourism use should, where appropriate and necessary include information on proposals for the restoration of the building, to include the removal of any unsightly features considered to affect the character of the area. Evidence of neglect of properties will not be a reason supported for change of use of holiday accommodation that could otherwise be used for tourism purposes.

The submitted design and access statement states that the proposed use would not be an HMO, the specific use would be for supported living - an emerging model of facility that is currently in short supply. The proposal is therefore considered to pass criterion a) of Policy PNP14.

The context of the area surrounding the site is one of a mix of tourism and residential properties. The previously refused application on this site (P/2022/0972) did not provide suitable evidence to meet criterion b) of Policy PNP14 which resulted in a reason for refusal. However, the current application is supported by a design and access statement which provides an argument as to why the applicant considers that the development proposed would not detract from the areas function. The operation

of the site as a hotel/B&B has ceased. The hotel/B&B has limited facilities and might be considered to be of limited tourism significance.

The applicant states that the site is a modest sized bed and breakfast facility which was run by the owners and did not employ any staff and therefore its loss to the tourism function of the area, and the local tourism economy is negligible.

In the context of the amount of tourist accommodation nearby to the site, particularly within the Local Plan Core Tourism Investment Area, which encompasses Paignton sea front and includes the newly built hotels on the sites of the previous Park Hotel and The Lighthouse which provide an extra 280 hotel rooms to the area, it is concluded that the site is of limited significance to the overall tourism offer in the vicinity.

The proposal is therefore considered to largely meet the requirements of criterion b) of Policy PNP14.

The proposal includes the removal of hotel signage which would have a positive visual impact on the building. Although extensions have been made to the original building during its time as a hotel/B&B, the removal of these would appear overly onerous and not viable. The proposal is, as far as practicable, considered to meet criterion c) of Policy PNP14.

Local Plan Policy SS13 aims to provide additional housing and maintain a five-year supply of deliverable housing sites. Policy SS11 aims to improve the sustainability of existing communities in Torbay, enhance the quality of life for residents and, especially, to close the gap between the most and least disadvantaged neighbourhoods. Policy H1 seeks to provide a range of homes on allocated and unallocated sites to meet assessed needs and to create mixed, balanced communities with high quality living environments. Policy H6 supports measures to help people live independently and to live active lives within the community.

The NPPF 2021 (paragraph 11) sets out the presumption in favour of sustainable development. For decision-making this means that where the development plan

policies are out-of-date permission should be granted. Unless the impacts of doing so would demonstrably and significantly outweigh the benefits when assessed against the NPPF taken as a whole. "Out-of-date" is defined as not having a five-year supply of deliverable housing sites or where the delivery of housing over the previous three years was below (less than 75% of) the requirement.

The Council cannot demonstrate a 5-year housing land supply or the required 3-year housing delivery. The site is within the built-up area in a sustainable location and would increase the residential use of the site. The provision of 10 supported affordable units is a substantial, the proposal is considered to have an acceptable impact on the tourism offer in Paignton and is considered to be in compliance with the development plan as a whole. The presumption in favour of development further to paragraph 11 of the NPPF is not outweighed by loss of the hotel use on the site, and the proposal complies with Policies H1, SS11 & SS13 of the Torbay Local Plan and Policy PNP14 of the Paignton Neighbourhood Plan.

Bearing the forgoing in mind, the proposal is considered to be acceptable in principle. This broad position is however subject to wider policy considerations that are relevant to the development proposal, which will be discussed in the forthcoming sections of this assessment.

2. Design and Visual Impact

Paragraph 126 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 134 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 PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan requires development to 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 includes the removal of hotel signage which would have a positive visual impact on the building.

The proposed fire escape staircase would be located to the rear of the building and not significantly visible in the wider streetscene.

The proposal includes improvements to rear amenity space through the addition of hard and soft landscaping features.

The proposal would not result in any unacceptable harm to the character or visual amenities of the locality including the nearby conservation area and is considered to be in accordance with Policies DE1 and SS10 of the Local Plan, Policy PNP1 (c) of the Neighbourhood Plan, and the guidance contained in the NPPF.

3. Impact on Residential Amenity

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

Policy PNP1(c) (Design Principles) of the Paignton Neighbourhood Plan states that development proposals should where possible and appropriate to the scale and size of the proposal protect residential amenity in terms of noise, air, or light pollution.

Future occupants

Each self-contained unit will have its own lounge/living area, bedroom, kitchen and bathroom. With regard to the floor areas of the self-contained units, each unit is for one person. Under the Nationally Described Space Standards the floor area should be 37sqm. However, the nature of this proposed use is different from fully independent living and the shared facilities, including a dining room, kitchen and toilets, provide a social environment in support of the private spaces. Although some of the units have smaller floor areas, the overall floor space provision for the ten units is acceptable subject to the use of the entire site being limited by condition. It is considered appropriate to impose a condition limiting the use to ten supported living units under Use Class C2 with ancillary facilities (lounge and support areas) limited

to a maximum of ten occupants. It is also considered necessary to restrict it to a facility operated by Westward Housing Group.

Every habitable room is considered to provide adequate outlook and levels of natural light for its residents albeit that some of the bedroom windows would look out on to the external fire escape staircase. The proposal includes improvements to the rear amenity space to provide a garden area, paved seating area, facilities to grow vegetables and a turfed area for drying clothes. The site is also in a highly sustainable location being within walking distance of the town centre, transport links, public gardens and the beach.

Neighbouring occupants

The proposal involves the addition of an external fire escape to the rear and the addition of a new window at first floor level on the west elevation. Given that the proposal involves no extensions to the property, the proposal would not result in any loss of outlook or natural light. The proposed new window would face into the east elevation of Paignton Court (to the west of the site). This elevation does have some existing windows on its east elevation, however, overall, given that the proposal is only for one new window and as the proposed relationship would not be uncommon in a built up area such as this, it is not considered it would give rise to unacceptable level of overlooking of neighbouring properties.

Staff facilities are positioned where they will be easily accessible and allow surveillance of shared area as well as provide a first point of contact with the neighbouring community in the event that any concerns arise. The ethos of the Care model is to aid resocialisation and to reintroduce the residents to independent living and learning. Community Safety have raised no objections to the proposal and Westward's management regime aims to address amenity concerns relating to the use. In addition, it is proposed that CCTV will be installed. It is considered that a condition requiring the site to operate in accordance with a management plan is appropriate, the measures within the management plan would act to limit anti-social behaviour, noise and nuisance.

Criterion iii) of Policy H6 of the Local Plan states development proposals (for care homes or assisted living facilities) will only be supported where they will not harm the creation or retention of mixed and balanced communities. Policy SS11 of the Local Plan states that development proposals will be assessed as to whether they can promote social inclusion and seek to eliminate exclusion based on access to housing, health, education, recreation and other facilities. The proposal would provide needed assisted living accommodation within Torbay and it is, therefore, considered that it would help to maintain a mixed and balanced community within the area and would provide a facility to those disadvantaged within Torbay.

Subject to conditions, the proposal is considered to be in accordance with Policies DE3, H6 and SS11 of the Local Plan and PNP1(c) of the Paignton Neighbourhood Plan.

4. Access, Movement and Parking

Policy TA3 and Appendix F of the Local Plan states that flats should be provided with 1 on-site parking spaces for motor vehicles, cycle storage, and provisions for the storage of refuse bins and recycling boxes.

The application is for the conversion of a hotel to 10 x 1 bed supported flats. There are six existing car parking spaces on the site which are to be retained. These spaces are to be unallocated. Electric vehicle charging facilities are to be provided on-site.

Appendix F of the Torbay Local Plan (2012 – 2030) states that for 'Homes for the elderly and people in need of care' one car parking space is to be provided per eight residents. Considering the quantum of development proposed it is considered that the six car parking spaces is acceptable for the residents and staff at the site. Visitor car parking is available on local roads in the highway network. The applicant had advised that, in practise, future occupiers are unlikely to own cars.

The applicant has stated that secure cycle parking is to be provided on site and this is show at the rear of the property on the submitted plans. Appendix F of the Torbay Local Plan expects storage space to be provided for at least 1 cycle per flat,

therefore, the proposed development should allow provision for the storage of 10 cycles. Details of the proposed cycle storage can be secured by condition, and this is recommended.

The applicant has stated that refuse collection will be retained as per the existing operation from the rear of the site. Highways have confirmed that this is considered acceptable.

Considering the extant use of the site and small quantum of development proposed it is considered that the proposed development will not result in severe impact upon the operation or safety of the local highway network.

The previous application on the site (P/2022/0972) included a highways reason for refusal due to a lack of information to show the provision of electric charging points, allocated or unallocated parking, the quantum of cycle parking and refuse management plan. The current application includes these details with the highways consultation response advising that the quantum of the cycle parking be provided. It is considered that this information can be requested by condition.

Subject to conditions to secure cycle storage and to ensure that the car parking spaces are retained and kept available for use for parking purposes, the proposal is considered to be in accordance with Policies TA2, TA3 and Appendix F of the Torbay Local Plan and Policies PNP1 (d) and PNP1 (h) of the Paignton Neighbourhood Plan.

5. Ecology and Biodiversity

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

Policy C4 states that development will not be permitted where it would seriously harm, either directly or indirectly, protected trees.

Policy PNP1 (c) of the Paignton Neighbourhood Plan encourages development proposals to retain existing natural features and features of biodiversity value on site, and to enhance biodiversity where possible.

The application site is occupied and not in an area identified as likely to house protected species. The proposed development is for change of use and does not involve works to the roofs. The presence of protected species is unlikely. However, an informative advising a precautionary approach can be imposed on the planning decision.

The proposal is therefore considered to be in accordance with Policy NC1 and Policy C4 of the Local Plan and Policy PNP1 (c) of the Paignton Neighbourhood Plan.

6. Drainage and Flood Risk

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

Policy PNP1(i) requires developments to comply with all relevant drainage and flood risk policy.

The site is located within Flood zone 3, Policy ER1 requires a detailed flood risk assessment to be submitted with a planning application. The previous application on the site (P/2022/0972) did not include a sufficient site specific flood risk assessment which resulted in a reason for refusal of the application.

This current application is supported by a site specific flood risk assessment which has been reviewed by the Councils Drainage Engineer and the Environment Agency. The consultation responses from both state that, providing all the flood mitigation measures identified within the site specific flood risk assessment are incorporated into the final conversion of this building, the proposal is acceptable and would accord with Policy ER1 of the Local Plan. Concerns raised in the Planning Policy consultation response have been shared with the Environment Agency who have reiterated that they have no objection to the proposal subject to the flood mitigation measures being incorporated.

The proposed development would also not result in an increase in the impermeable area on the site.

The proposals are therefore not considered to present any material changes in terms of flood risk. The Council's Drainage Engineer has also raised no objections to the proposed development.

The proposal is therefore deemed acceptable in terms of its impact on drainage and flood risk including surface water flooding and is considered to be in accordance with Policy ER1 of the Local Plan and Policy and PNP1(i) of the Paignton Neighbourhood Plan.

7. Waste

Policy W1 of the Torbay Local Plan requires as a minimum that all developments make provision for appropriate storage, recycling, treatment and removal of waste likely to be generated by a development.

PNP1 (d) of the Paignton Neighbourhood Plan requires space to be provided for solid waste storage on each curtilage including seagull proof structures a minimum size of 240l.

The applicant has stated that refuse collection will be retained as per the existing operation from the rear of the site.

It is considered that the details provided show that the site has adequate space within its curtilage to provide for easily accessible waste and recycling bins required for the development.

The proposals therefore conform with the requirements of Policy W1 of the Torbay Local Plan and Policy PNP1 (d) of the Paignton Neighbourhood Plan.

8. Designing Out Crime

Policy S11 of the Torbay Local Plan requires development to help reduce and prevent crime and the fear of crime whilst designing out opportunities for crime, antisocial behaviour, disorder and community conflict.

Policy PNP1 (g) of the Paignton Neighbourhood Plan requires all developments to show how crime and fear of crime has been taken into account.

The Designing Out Crime Officer has raised no objections to the proposed development which includes the installation of CCTV at the premises. The proposals are considered to meet the requirements of Policy S11 of the Torbay Local Plan and Policy PNP1 (g) of the Paignton Neighbourhood Plan.

9. Low Carbon Development

Policy SS14 (Low Carbon Development and Adaptation to Climate Change) requires development to minimise carbon emissions and the use of natural resources, which includes the consideration of construction methods and materials.

Policy ES1 (Energy) seeks to ensure that carbon emissions associated with energy use from new and existing buildings (space heating, cooling, lighting and other energy consumption) are limited.

Policy PNP1(f) (Towards a Sustainable Low Carbon Energy Efficient Economy) of the Paignton Neighbourhood Plan outlines that new development, where appropriate and subject to viability, should undertake sustainable construction and water management technologies.

The proposed conversion of the building will largely utilise the existing footprint and internal layout.

The proposed development is therefore considered to meet the requirements of Policies SS14 and ES1 of the Torbay Local Plan and PNP1(f) of the Paignton 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 some minor economic benefits to the construction industry from the proposed development. Once the units 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. In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principal social benefit of the proposed development would be the provision of additional supported accommodation which provides a specialist and vital service for residents of Torbay who are experiencing enduring mental illness. This would provide a clear social benefit which weighs strongly in favour of the development.

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be relevant to the proposed development are impacts on the heritage, streetscape, ecology, biodiversity and surface and foul water drainage. These matters have been considered in detail above. The proposed development is in a sustainable location with a range of public transportation links. It is considered to be a low-impact. In respect of the environmental element of sustainability, the balance is considered to be in favour of the development.

Sustainability Conclusion

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

Human Rights and Equalities Issues Human Rights Act:

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

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

Local Finance Considerations

S106/CIL – Not applicable

CIL - 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.

Proactive Working

In accordance with paragraph 38 of the National Planning Policy Framework the Council has worked in a positive and creative way and has concluded that the application is acceptable for planning approval/imposed conditions to enable the grant of planning permission.

Conclusions

The proposal is in accordance with the provisions of the Development Plan and the 'Tilted Balance' adds significant weight in favour of the development in the absence of harm being identified.

The proposal is considered acceptable in principle and would result in clear social benefits by providing a specialist form of supported accommodation to serve the residents of Torbay which would not unduly impact local amenity. The previous reasons for refusal are considered to have been addressed.

The development 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 Paignton Neighbourhood Plan, the NPPF, and all other material considerations. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval: Subject to;

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

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

Draft Conditions:

Use 1

The property shall only be used for the provision of residential accommodation (comprising ten self-contained flats) and care to people in need of care and for no other purpose (including any other purpose in within Class C2 of the Schedule to the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification).

No part of the development shall be occupied as non-residential institution accommodation.

Reason: In the interests of residential amenity in the area and to ensure that the use of the site accords with Policies H1, H6 and DE3 of the Torbay Local Plan. Any variation from the use applied for must therefore have the express approval of the Local Planning Authority.

Use 2

The Class 2 residential institution hereby approved shall:

- a) only be used to accommodate residents who are already resident within the administrative area of Torbay Council and
 - b) only be operated by Westward Housing Group for the approved use.
 - c) serve a maximum of 10 residents at any one time
- When the premises cease to be used by Westward Housing Group for the approved use, the use hereby permitted shall cease.

Reason: In the interests of providing a service to address local needs in accordance with Policies H1 and H6 of the Torbay Local Plan. The site is in an area where a change in either the operator or the type of use may lead to detrimental effects on the area. In the interests of residential amenity in the area and to ensure that the operation of the site accords with Policy DE3 of the Torbay Local Plan. Any variation from the provider of services must therefore have the express approval of the Local Planning Authority.

Construction Hours

No construction works or any works including site preparation and clearance works or construction related deliveries into or from the site shall take place other than between the hours of 08.00 to 18.00 on Monday to Friday and 08.00 to 13.00 hours on Saturdays and at no time on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In interests of local amenity and in accordance with Policy DE3 of the Adopted Torbay Local Plan 2012-2030.

Parking

The existing car parking spaces on the site, shall be retained and provided for the free use of occupants and visitors to the site prior to its first occupation for the use hereby permitted.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030

Electric Charging Facilities

Prior to the occupation of the development hereby approved, the electrical vehicle charging point shown on the approved plan (ref:08302-TDA-DR-PL-0011 received 04.04.2023) shall be provided and made available for use. The approved electrical vehicle charging point shall be thereafter available for use, maintained and retained for the lifetime of the development.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

Flood Mitigation

The development shall be carried out in accordance with the submitted flood risk assessment (Ref.: 1806– C300, dated 3rd April 2023 by True Consulting Engineers) and the following mitigation measures it details within section 6.1.3 resistance measures and section 6.1.4 flood resilient measures.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: Reason: In the interest of flood risk safety in accordance with Policy ER1 and ER2 of the Torbay Local Plan and section 14 of the NPPF.

Management Plan

The development hereby approved shall be occupied in strict accordance with the approved Management Plan received 12.06.2023 at all times, or an alternative Management Plan is submitted to and agreed in writing by the Local Planning Authority.

Reason: In the interests of providing a service that addresses an identified housing need and in the interests of residential amenity in the area and to ensure the management of the site accords with Policy DE3 of the Torbay Local Plan.

Reason: In accordance with highway safety and amenity, and in accordance with Policy TA3 of the Adopted Torbay Local Plan 2012-2030.

Cycle Storage Details

Prior to the first occupation of the development details of cycle storage (secure and weatherproof) 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 the first occupation of the development and maintained for the lifetime of the development.

Reason: In the interests of reduction of carbon fuel usage and residential amenity, and in accordance with Policies DE3, TA2 and TA3 of the Adopted Torbay Local Plan 2012-2030

Refuse and Recycling

Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse and recycling awaiting collection according to details which shall previously have been submitted to and agreed in writing by the Local Planning Authority. Once provided, the agreed storage arrangements shall be retained and maintained for the life of the development.

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

Informative(s)

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

Torbay Local Plan

SS13 - Five Year Housing Land Supply

SS10 – Conservation and the historic environment
SS12 – Housing
SS14 – Low carbon development and adaption to climate change
SDP1 – Paignton
SS11 - Sustainable Communities Strategy
H1LFS - Applications for new homes
H2 – Affordable housing
H6LFS - Housing for people in need of care
C4- Trees, hedgerows and natural landscape features
DE1 – Design
DE2 – Building for Life
DE5 - Domestic extensions
DE3 - Development Amenity
ES1 – Energy
ER1 - Flood Risk
ER2 – Water management
SC1 – Healthy Bay
TA2 - Development access
TA3 - Parking requirements
NC1LFS - Biodiversity and Geodiversity
W1 – Waste hierarchy

Paignton Neighbourhood Plan

PNP1 (c) – Design Principles
PNP1 (d) – Residential Development
PNP1 (f) – Towards a sustainable low carbon energy efficient economy
PNP1 (g) – Designing out crime
PNP1 (h) – Sustainable Transport
PNP1 (i) – Surface Water

Application Site Address	Lincombe Keep Lincombe Drive Torquay TQ1 2HQ
Proposal	Formation of additional storey with external terrace and alterations.
Application Number	P/2023/0081
Agent	Base Planning Consultants
Applicant	Mr and Mrs Marks
Date Application Valid	25/01/23
Decision Due date	22/03/23
Recommendation	<p>Approval: Subject to;</p> <p>The conditions as outlined below with the final drafting of conditions delegated to the Divisional Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Divisional Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee following the SRM procedure.
Planning Case Officer	Sean Davies



Site Details

The site at Lincombe Keep, Lincombe Drive Torquay TQ1 2HQ is a detached dwelling and its curtilage. The site forms part of the built up area but is not otherwise subject to any designations within the Torbay Local Plan. The garden to Lincombe Keep is a Registered Park and Garden which contains a listed turret feature. Castle Tor is a Grade II listed building behind the site. Lincombe Keep is not a listed building and is not in a Conservation Area.

Description of Development

Formation of additional storey with external terrace and alterations:

The applicant is seeking planning permission to build an additional storey on top of Lincombe Keep with an internal floor to ceiling height of 2.4m. The additional storey would have three windows in the south east (front) elevation, five windows in the north west (rear) elevation and two windows and doors in the south west (side) elevation, with the doors giving access to a small terrace area (the roof of the existing second floor). As explained below, the applicant already has planning permission for the additional storey. The current proposals differ from the approved scheme only as regards 1. The internal floor to ceiling height and 2. The proposed openings in the south west elevation, which are not included in the approved scheme.

The applicant is also seeking planning permission, at second floor level, to replace an existing door with steps leading down to the garden of the property and two windows in the north west (rear) elevation with a window (replacing the door – steps to be removed), two Juliet balconies and a new more centrally positioned door and steps leading down to the garden between them. A new door would also be added in the south west elevation at second floor level giving alternative access to an existing terrace area. The applicant already has planning permission to replace the two afore mentioned existing windows in the north west elevation with three Juliet balconies. The current proposals differ from the approved scheme only in so far as 3. The existing door in the north west elevation would be replaced with a window, the existing steps would be removed and the central approved Juliet balcony would be replaced with a new door, with new steps leading down to the garden. The new door in the south west elevation would be added.

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:

Development Plan

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

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.

Summary Of Consultation Responses

Torquay Peninsula Neighbourhood Forum: Objection that proposals do not comply with Torbay Local Plan policies SS3, SS8, SS9, SS10, TA1, TA2, TA3, C4, C5, NC1, HE1, DE1, DE3, DE4, DE5, ER4 and Torquay Neighbourhood Plan policies TS1, TS3, TH8, TH9, TH10, TE2

Historic England: "... Historic England provides advice when our engagement can add most value. In this case we are not offering advice...."

Summary Of Representations

Approximately 7 objections have been received:

Richard Rawson, Wellswood Community Partnership

“The proposal will have a detrimental effect on neighbours and impact on the local amenities, namely Lincombe Woods and Ilsham Green, designated Green Spaces. The proposal is for an additional floor which would make a 5 storey structure which is totally out of keeping with the surrounding area. It contravenes policies within the Torquay Neighbourhood Plan and Torbay Local Plan, namely Policies TH12, TE2, SS8-10, TA2, HE1, DE4. I would particularly draw your attention to Policy DE10 Building Heights. This Policy requires the height to be appropriate to the location, historic character and setting. I would also draw your attention to the floor height which is in excess of the permitted 2.15m. Furthermore the application now includes an increase in windows and a balcony area which increases the overlooking aspect of the proposal”.

[note - as the Local Plan does not contain a policy DE10 it is assumed that policy DE4 is referred to]

Mr & Mrs Lloyd, Castle Tor, Torquay

- The proposals are substantially similar to previous proposals that have been refused.
- The current proposals contain elements that were not included in the proposals subject to upheld appeal decision for P/2022/0403 (i.e adjusted internal floor to ceiling height and openings in side elevation).
- Castle Tor is Grade II listed. Lincombe Keep is included in the listing for Castle Tor and so permitted development rights don't apply.

Lawrence Stringer, The Spinney, Lincombe Drive, Torquay

- Current application assumes that neighbour amenity may not be re-examined beyond the Inspector's conclusions reached in upholding the applicants successful appeal under reference P/2023/0403. However this assumption is incorrect.
- Current application should be treated as a new application and neighbour amenity issues should be considered again. Application should be refused for same reasons as previous similar applications.
- Disagree with Planning Inspector's conclusions (P/2022/0403) that the proposals would leave The Spinney with adequate views.
- Proposals involve more windows in rear elevation to proposed new storey that would be visible from living area at The Spinney. The applicant has not provided any analysis to identify any overlooking from these or from the western edge of the proposed terrace (as recommended in pre-application advice).
- Proposed windows and terrace will overlook habitable rooms of The Spinney and garden.
- Loss of views.
- Proposed new windows not in keeping with existing windows in Lincombe Keep.
- No plans showing height of Lincombe keep in relation to neighbouring properties.
- Proposals will make Lincombe Keep over dominant and out of keeping with local area due to five storey appearance.
- Construction disruption
- Concern about road safety in relation to parked contractor vehicles and in regards to contractor vehicles potentially making it more difficult to use parking for The Spinney.
- Concern about effect of proposed works on the structural integrity of Lincombe Keep.

Mr & Mrs Haynes, 26 Oxlea Road, Torquay

- Change of use to commercial business would be detrimental to the area
- Parking vehicles on a narrow road might cause another problem.

Jacky Little, 28 Oxlea Road Torquay

- Lincombe keep is within curtilage of Grade II listed Castle Tor – listings 2010 (UID: 1393661) & 1987 Grade II listing - PARK AND GARDEN (UID: 1000131) are relevant.
- Contrary to development plan policies as below:
- DE1, TH8, TH10, HE1, C4, NC1: TS1, SS3, SS8, SS9, TE2 SS10, TA1, TA2, TA3, TH9, ER4, DE3, TS3, DE4, DE5, C5, NC1, HE1, TS1, TS3, TH9, TE2.
- Proposals involve a change of use to business use.

Ian Collinson, Hacdombe Chase, Harcombe, Newton Abbot

- Proposals are overbearing to The Spinney and involve loss of light
- Proposed bay windows will affect privacy of The Spinney, The Cairn, Castle Tor and The Chine.
- Lincombe Keep is within the curtilage of Grade II listed building Castle Tor
- Proposals involve change of use from residential to business use.
- Contrary to Torbay Local Plan Policies DE1, DE3, DE4, DE5, ER4, SS3, SS8, SS9, SS10, TA1, TA2, TA3, C4, C5, NC1, HE1 and Torquay Neighbourhood Plan policies TS1, TS3, TH8, TH9, TE2

Alex Collinson, The Grampians, Shepherds Bush Road, London

- A site notice was posted so the site must be in a conservation area of the Council have made a mistake
- Site notice was not correctly served as didn't include case officer details
- Application form hasn't been filled out properly re materials, trees and hedges, pre-application advice
- The application should be refused as the permitted development application upheld on appeal (P/2022/0403) for the additional storey was conditional on the internal floor to ceiling height of the proposed new storey not exceeding 2.145m and there being no windows in a side elevation.
- Planning Statement incorrectly says that there is no intervisibility between relocated steps on second floor and neighbours.
- Plans are inaccurate (as they refer to floors incorrectly as ground floor, first floor etc.)
- Historic England's advice for P/2023/0081 is incomplete since they did not have access to a daylight assessment provided by the applicant in the context of upheld appeal P/2022/0403.
- Proposal will make Lincombe Keep into a 5 storey house – immediate neighbours are all 2 storey.
- Proposals too bulky and out of scale with local area (DE1 & TH8).
- Will compromise long distance views (DE1).
- Proposals do not integrate with existing street scene (DE1)
- Noise & nuisance, visual intrusion, overlooking road closure (DE3)
- Does not comply with DE4 as proposals would exceed prevailing height of nearby buildings.
- Proposals will have adverse effect on The Spinney and street scene (DE5)
- Overlooking to 28 Oxlea Road (DE5)
- Not clear how surface water run off would be managed (ER1)
- There may be structural problems with the original build of Lincombe Keep that an additional storey would make worse.
- Proposed new windows in north west elevation not sympathetic with existing windows of leaded design.

NON PLANNING ISSUES

- Contrary to restrictive covenant from 1930 in relation to access to The Spinney
- Construction disruption
- Steps and path leading to The Spinney are private property attached to The Spinney.

A number of objections relate to the breach of a restrictive covenant, construction disruption, and the ownership of the path from Lincombe Drive up to The Spinney. These are not material planning issues in this case and are not considered further below.

CHANGE OF USE TO BUSINESS/COMMERCIAL USE

A number of objections raise concerns that the proposals involve a change of use from residential to business/commercial use. For the complete avoidance of doubt, the application is **not** for a change of use. Lincombe Keep is currently covered by a C3 residential use and if the proposals are approved it will remain covered by a C3 residential use. The applicant has at no point applied for a change of use. The confusion here appears to stem from the wording of previous site notices and neighbour notification letters issued by the LPA. The notices and letters were generated automatically using the LPA's "Uniform" planning IT system and incorrectly referred to a "change of use" in relation to previous applications. This error is regrettable and has since been corrected. The current site notice that has been issued does not refer to a change of use.

Again, the current proposals do **not** involve a change of use; the applicant has never applied for a change of use of the building or any part of it.

PROCEDURAL ISSUES

Objections have been made on the basis that the application form has not been filled out properly and that submitted plan are inaccurate (as they mislabel floors as being ground, first etc). Officers do not agree with this and consider that the application form as filled out is acceptable. The submitted plans are accurate and the proposals are clearly shown on the submitted plans.

Attention has also been drawn to the fact that the Council no longer posts site notices for Householder Applications unless they are in a Conservation Area. The implication here is that the site may be in a Conservation Area. Officers have checked why a site notice was produced and are advised that this is because the site is near Castle Tor, which is a listed building. There is a separate listing for the terraced gardens and all associated garden buildings at Castle Tor. There is also a listed turret feature within the Registered Park and Garden. For the avoidance of doubt the site is **not** in a Conservation Area.

An objection has also been made that the site notice didn't include the case officers personal contact details. For clarity, all site notices produced by the Council include the same contact details and all representations are always passed to the case officer.

Officers are satisfied that no procedural issues have arisen here.

Relevant Planning History

P/2020/0558 Bay window on East elevation to be extended downwards, changes to fenestration in north elevation, minor change to layout of lower ground floor garage and changes to internal layout. APPROVED

DE/2021/0071 Construction of additional storey to main building, and formation of hardstanding to roadside. PRE-APPLICATION

P/2021/1075 New access to restore portcullis as principal entrance, with laying of permeable hardstanding (see accompanying application P/2021/1076) WITHDRAWN

P/2021/1076 New access to restore portcullis as principal entrance, with laying of permeable hardstanding (see accompanying application P/2021/1075). WITHDRAWN
P/2021/1077 Installation or replacement windows, doors and steps on rear elevation. APPROVED
P/2021/1084 Addition of storey on existing property (revised plans received 9/12/21). REFUSED & APPEAL DISMISSED
P/2022/0403 Addition of storey on existing property. REFUSED & APPEAL UPHELD
P/2022/0662 Reposition of entrance including steps, with refuge area. See adjoining LB P/2022/0663. Reposition of entrance including steps, with refuge area. See adjoining LB
CN/2022/0121 Discharge of condition relating to P/2022/0662. Condition: 01 - Surfacing. APPROVED
DE/2022/0141 Upward extension and alterations following Class AA approval. PRE-APPLICATION ENQUIRY

In this case understanding the planning history to the site is helpful in understanding the current proposals. As can be seen above, the site history runs to three years now and to 12 applications of various kinds, including this one.

The applicant first applied to alter Lincombe Keep extensively under reference P/2020/0558. Historic England objected to these proposals. The LPA worked with the applicant and allowed the applicant to scale the proposals back to a simple downwards kitchen extension below a bay window in the front elevation that was needed to address a visible structural problem. This application as scaled back was approved.

At around this time the LPA asked the applicant to submit a Pre-Application Enquiry for the other changes they wanted to make at the property and to also make a pre-application enquiry to Historic England. The applicant did this under reference DE/2021/0071 and the LPA provided generally positive advice in relation to proposals for an additional storey to Lincombe Keep and a new proposed pedestrian access to Lincombe Keep so that people could walk through an existing portcullis feature and have a more direct access to the property. The applicant also received positive advice from Historic England.

The applicant then made a Full application (P/2021/1075) and a Listed Building application (P/2021/1076) to create a new pedestrian access using the portcullis feature and to create an area of hard standing next to Lincombe Drive. Both applications were subsequently withdrawn after discussions with the LPA.

The applicant made a Permitted Development (Certificate of Lawful Use Proposed) application made under Class A, Schedule 2 of the General Permitted Development Order 2015 (the "GPDO") to make changes to the fenestration in the rear elevation of Lincombe Keep under reference P/2021/1077. The applicants amended the design of their original proposals in response to officer feedback. A revised scheme was then approved, comprising of three new windows with Juliet balconies. Although these windows are correctly identified as being at second floor level on the approved internal layout plans, they are at ground floor level at the rear of the building due to a difference in levels (Lincombe keep has been built extending up a hill in terraces). The windows look out onto a circular "rose garden" forming part of the Registered Park and Garden.

The next application to be made was P/2021/1084 for an additional storey to Lincombe Keep, which the applicants made as a Permitted Development application under Class AA, Schedule 2 of the General Permitted Development Order 2015 (as amended). The LPA refused this application as the internal floor to ceiling height of the proposed additional storey would have exceeded that of the existing garage (in breach of permitted development rules) and due to the detrimental effect that officers considered that the proposals would have on neighbour amenity at

The Spinney, the closest property to Lincombe Keep, in terms of overshadowing, visual intrusion and overbearing impact. The appellant appealed this decision of refusal.

The applicant then made application P/2022/0403. This was again a Permitted Development application made under Class AA. The proposal was substantially similar to refused application P/2021/1084 but the internal floor to ceiling height of the proposed additional storey now matched that of the existing garage. Officers did not manage to issue a decision for this application (which would have been refusal due to the effect of the proposals on the amenity of The Spinney for the same reasons as P/2021/1084) within the target determination date for the application. The appellant appealed the LPA's non determination of the application.

The Planning Inspectorate considered both appeals together. The LPA submitted a representation covering both applications (P/2021/1084 and P/2022/0403) arguing why they should both be refused. The applicant likewise submitted their own statement arguing why they should be approved. In a combined decision the Inspector dismissed the appeal for P/2021/1084 on the basis that the internal floor to ceiling height of the proposed additional storey would have exceeded that of the garage.

However, the Inspector upheld the appeal for P/2022/0403 as the internal floor to ceiling height of the additional storey was the same as that of the garage in this application (the LPA had not objected to the proposed internal floor to ceiling height of the additional storey for that reason) and as the Inspector disagreed with the LPA that the proposed additional storey would affect the amenity of the occupiers of The Spinney to an unacceptable degree. The Inspector's decision is attached to the applicant's Planning Statement.

The Inspector's decision to uphold the appeal for P/2023/0403 means that the applicant already has planning permission to build the additional storey without any further involvement with the LPA. This decision has been made and cannot be changed now, regardless of how the current application is determined.

The application next made Full planning application P/2022/0662 and Listed Building application P/2022/0663 for revised proposals for the afore mentioned new pedestrian access from Lincombe Drive making use of the portcullis structure. These applications took account of officer feedback provided before applications P/2021/1075 and P/2021/1076 were withdrawn and were subsequently approved. The applicants subsequently applied to discharge a condition that the LPA attached to P/2022/0662 relating to surfacing – CN/2022/0121 – and this was also approved.

The most recent application made by the applicant, was a Pre-Application Enquiry made under reference DE/2022/0141 for the current proposals. The applicant made it clear that they intended to submit a Householder Application for the proposals that have now been submitted. Officers provided supportive advice in relation to the current proposals (which is attached to the applicant's Planning Statement). In doing so officers accepted that approved applications P/2021/1077 (concerning rear fenestration) and P/2022/0403 (the approved additional storey) were the starting points for the assessment of the current proposals. In other words, the LPA recognised that the additional storey already has planning permission and so focussed on the changes that the applicant now proposes to the additional storey that already has planning permission.

SUMMARY

In summary, the applicant already has planning permission for a small downwards extension to the existing kitchen facing Limcombe Drive (P/2020/0558). It is understood that these works are completed.

Also, to carry out works to create a new more direct pedestrian access to Lincombe Keep from Lincombe Drive, making use of the existing portcullis feature (P/2022/0662 & P/2022/0663). These works were substantially complete the last time officers visited the site.

The applicant has planning permission to alter fenestration at the rear of the building to create three new Juliet balconies (P/2021/1077).

The applicant also has planning permission to create a new storey on top of Lincombe Keep to the same external dimensions and using the same materials as are involved with the current proposals (P/2022/0403).

None of these planning permissions can be overturned and none will be affected by how the currently proposals are determined (i.e approved or refused).

Planning Officer Assessment

Key Issues/Material Considerations

The key issues to consider in relation to this application are:

Planning Officer Assessment

1. Principle of development
2. Visual Amenity
3. Amenity
4. Conservation and Historic Environment
5. Sustainable Development
6. Transport
7. Environment
8. Landscape
9. Flood Risk and Drainage

10. Ground Stability
11. Maidencombe

1. Principle of development

The proposal seeks permission for Formation of additional storey with external terrace and alterations. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

2. Visual amenity

Policy DE1 (Design) of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy DE4 (Building Heights) of the Local Plan states that the height of new buildings should be appropriate to the location, historic character and setting of the development. Policy DE5 of the Local Plan states that extensions to domestic dwellings should not dominate or have other adverse effects on the character or appearance of the original dwelling or any neighbouring dwellings or on the street scene in general. Policy TH8 of the Torquay Neighbourhood Plan states that development proposals must be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The proposals have three main elements. Two relate to the additional storey that has already been approved (P/2022/0403). The third relates to changes to fenestration at second floor level on the

north west i.e. rear elevation that have already been approved (P/2021/1077) and the addition of new doors in the south west i.e. side elevation¹:

ADDITIONAL STOREY

The proposals are for an additional storey on top of Lincombe Keep. Lincombe Keep was built in the early 1990s. It presents as a four-storey building at present (lower ground floor, ground floor, first floor, second floor) when viewed from Lincombe Drive. The proposals would add a fifth storey (i.e. a third floor). The new storey proposed has exactly the same exterior dimensions (height, width and materials) and footprint as the additional storey that was approved following the applicant's appeal of refused permitted development application P/2022/0403.

The proposed additional storey would increase the height of Lincombe Keep (when viewed from the front i.e. the south east elevation) from approximately 12m to 15m, including a low parapet wall. The new storey would have three leaded windows in the front south east elevation to match existing windows and five windows in the rear north west elevation. Two of these windows would light a staircase and small landing. The other three windows (and the three windows in the front elevation) would light a lounge. No openings are proposed in the north east side elevation facing the garden of The Spinney. These elements of the proposed additional storey are exactly the same as for the additional storey approved under P/2022/0403.

As set out above, as the applicant already has planning permission for the additional storey approved on appeal under planning reference P/2022/0403 this means that the applicants can build this extension now with no further involvement with the LPA.

It should be noted that permitted development rules mean that the LPA could have refused application P/2022/0403 (and also application P/2021/1084 which preceded it) on the basis of the visual appearance of the proposed additional storey but did not do so as officers found that the visual appearance of the proposed additional storey was acceptable.

A senior officer with design expertise reviewed the proposed additional storey in relation to application P/2022/1084 in the context of relevant Local Plan policies and advised that *"In my view, the proposal is acceptable"* Historic England also commented that *"The application has now been amended to address our minor residual heritage concerns. We welcome these changes which follow our recommendations. We have no further comments to make on the application and leave the consideration of other heritage and planning matters to your authority."* (letter dated 02/02/22).

The officer report for refused application P/2021/1084 stated that:

"The principal policies in the Local Plan dealing with design are Policy DE1 Design and development, Policy DE4 Building Heights and Policy DE5 Domestic Extensions. Policy DE1 states that development should be well designed and that development proposals will be assessed against their ability to meet specified design considerations which include visual appeal. Policy DE4 deals with the height of new buildings and so is not relevant here. Policy DE5 states that extensions to domestic dwellings will be permitted where they do not result in a cramped or overdeveloped site and would not dominate or have other adverse impacts on the character or

¹ Note: the existing and proposed first and second floor plans show some internal changes to the building. These changes do not need planning permission as Lincombe Keep is not a listed building. The plans also show some rooms being used for different purposes i.e. bedroom to lounge etc. These changes do not need planning permission either.

appearance of the original property or neighbouring properties or the street scene in general. In addition, Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design and respect local character in terms of height, scale and bulk and reflect the identity of its surroundings.

... Historic England and the Local Planning Authority have considered the external appearance of the proposals including the principal and side elevations, generally and relative to the Registered Park and Garden and as viewed from Lincombe Drive and consider that the external appearance of the building with the additional storey as proposed is acceptable”.

Officers did not raise the visual appearance of the proposed additional storey in the LPA’s Statement of Case covering refused application P/2021/1084 or non-determined application P/2022/0403.

Officers remain of the view that the proposed additional storey is acceptable in visual terms.

It should also be noted in this respect that the Inspector found in his combined decision covering the appeals for P/2021/1084 and P/2022/0403 at paragraph 30 that:

“Concerns have also been raised regarding the external appearance of the proposal, which is a matter that can be considered under an application for prior approval. In this regard, however, I note that the additional storey would respond to the host building in terms of its scale, materials, and design. It would not, therefore, appear as an incongruous addition to the roof of the building, but rather as a well-considered extension”.

1. Internal floor to ceiling height

The current proposals seek to make two changes to the additional storey that the applicant already has planning permission for. The first of these is to raise the internal ceiling of the proposed additional storey so that the internal floor to ceiling height would rise from 2.145m, as approved under P/2022/0403, to 2.4m. The height of the roof would not change.

Permitted development rules mean that the internal floor to ceiling height of an additional storey cannot exceed the floor to ceiling height of any other storey within the building. The LPA successfully argued within the appeals for P/2021/1084 and P/2022/0403 that the existing integral garage forms a floor of Lincombe Keep. The applicant’s appeal for P/2021/1084 was dismissed as the floor to ceiling height of the proposed additional storey included with that application exceeded 2.145m. The appeal for P/2022/0403 was upheld in part because the applicant had reduced the internal floor to ceiling height of the additional storey to 2.145m to match the floor to ceiling height of the garage.

The applicant’s proposal to raise the internal floor to ceiling height to 2.4m would not be allowed under permitted development rules for an additional storey. However, the current application is for a Householder Application and there is no restriction on floor to ceiling heights for a Householder Application. Officers do not consider that the approximately 30cm increase in internal floor to ceiling height of the proposed additional storey would make any noticeable difference to its visual appearance.

Officers therefore consider that this part of the proposals is acceptable in terms of visual amenity. As noted above, the external dimensions of the additional storey would not change.

2. Fenestration in side (south west elevation) of additional storey

The south west (side) elevation of the proposed additional storey, facing across the garden, was approved with no openings in it under P/2022/0403. This is because permitted development rules for an additional storey state that openings (i.e. windows and doors) in a side elevation of an additional storey are not allowed.

The current Householder Application includes two windows and doors in the south west elevation, with the proposed doors giving access to a small terrace area which currently forms the roof to the second storey below it. Again, officers do not consider that these changes would make any significant difference to the visual appearance of the additional storey that already has planning permission.

Officers also therefore consider that this part of the proposals is acceptable in terms of visual amenity.

SECOND FLOOR FENESTRATION

Due to a difference in levels the north west elevation of Lincombe Keep at second floor level, i.e. the rear elevation, is at ground floor level. The existing fenestration in this elevation consists of a door with steps leading down to a circular garden and two small windows.

Planning permission was granted under reference P/2021/1077 to change the fenestration in this elevation. The existing door and steps was to be retained but the existing two small windows were to be replaced with three larger windows with Juliet balconies. As in the case of the additional storey, as planning permission has already been granted for P/2021/1077, the applicant can make these changes now without any further involvement with the LPA.

3. New doors in north west and south west elevations

The current proposals are to change the approved fenestration slightly. The existing door would be changed to a window and the steps outside of it removed. New steps would be built from the garden up to the middle approved Juliet balcony. This Juliet balcony itself would be replaced with new glazed doors and would become the new access to the circular garden. As the north west elevation is the rear of the site it is not visible from the public domain.

New double doors, matching the appearance of existing double doors, would also be added to the south west elevation to give an alternative access to an existing terrace. Again, it appears unlikely that these doors would be visible from the public realm.

As such officers consider that these elements of the proposals are also acceptable in visual terms. It should be noted that none of the objections that have been made appear to relate to these proposed changes.

OBJECTIONS

Objections have been made that the proposed additional storey is contrary to policies DE1, DE4, DE5 and TH8. Arguments against the proposals include that the additional storey represents poor design, would be overly dominant and bulky, would not use materials to match the existing dwelling and would be out of character with the local area and would be too high with reference to policy DE4, which calls for new buildings to be built to the prevailing height of nearby buildings.

As noted above, officers have already had two opportunities to object to the proposed additional storey within the context of refused application P/202/1084 and the LPA's appeal Statement of case covering both P/2021/1084 and P/2022/0403 in relation to Policies DE1, DE5 and TH8 (the LPA does not consider that Policy DE4 is relevant since it only applies to new buildings) but have not done so.

Officers did not do this as officers considered that the proposed additional storey was acceptable in visual terms. Officers do not consider that the proposed changes to the additional storey that already has planning permission now make the proposed additional storey unacceptable. The proposed changes are considered to be minor in nature and officers do not consider that they would change the visual appearance of the approved additional storey to any significant degree.

Officers consider that the proposed changes to second floor fenestration in the north west and south west elevations are benign and do not affect the visual appearance of Lincombe Keep in an unacceptable way.

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

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

3. Amenity

The principal policies dealing with neighbour amenity in the Local Plan are Policy DE3 Development Amenity and Policy DE5 Domestic Extensions. Policy DE3 states that development should not impact upon the amenity of neighbouring uses with reference to criteria including, noise, nuisance, visual intrusion, overlooking, and privacy, light and air pollution and the scale and nature of the proposed use where this would be overbearing. Policy DE5 sets out criteria where domestic extensions will be acceptable including that the extension would not cause harm to the amenity of nearby properties, for example through overlooking, overbearing impact, loss of light or privacy, or water run-off.

Objections have been made that the proposed additional storey would be detrimental to neighbour amenity. Concerns have been raised that the proposed additional storey, including the new openings in the south west elevation and terrace, would result in overlooking to The Spinney, The Cairn, Castle Tor and The Chine. The occupants of The Spinney have also raised objections about the effect of the proposed additional storey on their amenity and have suggested that the proposals should be revisited again without reference to the appeal decision for P/2022/0403, in which the Inspector found that the proposed additional storey would not unduly impact on neighbour amenity.

When officers considered the proposed additional storey proposed under P/2021/1084 officers found that it would have unacceptable neighbour amenity impacts on The Spinney only. Officers considered overlooking to other properties but found that the distance between Lincombe Keep and these properties meant that no significant impacts were likely to arise. The officer report for refused application P/2021/1084 stated that:

“The proposals do not comply with Article AA.2.(3)(a)(i) of Schedule 2, Part 1, Class AA of the General permitted Development Order 2015 (as amended) and prior approval is refused in any event as the proposed additional storey would lead to unacceptable overshadowing to the garden

of the neighbouring property The Spinney and would have an overbearing and visually intrusive impact in relation to that property”.

The LPA's appeal Statement of Case for applications P/2021/1084 and P/2022/0403 stated that:

“Officers consider that the proposals submitted with P/2021/1084 and P/2022/0403 remain unacceptable due to their overbearing and visually intrusive impact as set out in the officer report for P/2021/1084. The appellant has not challenged this conclusion in the Statement of Case for either appeal.

“Also that notwithstanding the report considering the daylight and overshadowing implications of the proposals submitted with both appeals, the proposals remain unacceptable in so far as they would involve unacceptable overshadowing to the garden of the Spinney”

As set out above, the Inspector dismissed the appeal for P/2021/1084 due to the internal floor to ceiling height of the proposed additional storey but upheld the appeal for P/2022/0403. The internal floor to ceiling height of the additional storey had by that time been altered so as to be acceptable and so this was not an issue of contention. The Inspector's Decision stated at paragraph 28 that:

“I conclude that the proposal would not have a harmful impact on the amenity of the adjoining premises, The Spinney, regarding loss of light and outlook, and visual intrusion.”

It should be noted that P/2022/0403 and the current application are different application types, with the former being a Permitted Development application and the latter being a Householder Application. The criteria for assessing neighbour amenity is nevertheless exactly the same for both, namely policies DE3 and DE5.

Officers do not consider that the changes to the approved additional storey involved with the current application (increase in internal floor to ceiling height, new windows/door in south west elevation to access terrace, and changes to fenestration in north west elevation) would have any significant effect on neighbour amenity for any property.

It should be noted that the proposed terrace would be approximately 50m distant from Castle Tor and 60m distant from nos. 26 and 28 Oxlea Road. The proposed terrace in the south west elevation would face away from The Spinney and would be approximately 30m distant from it. Officers consider it unlikely that any new significant overlooking would occur to The Spinney. A planning condition can be used to ensure that a small triangular part of the roof that it might be possible to view The Spinney from is not used for sitting out purposes and is only accessed for maintenance purposes (see proposed third floor drawing 20.16_PL_5.10 dated January 2023).

Officers do not consider that they can maintain the objections to the proposed additional storey that officers raised in the refusal for P/2021/1084 or the appeal Statement of Case covering P/2021/1084 and P/2022/0403 as the issues have already been examined by a Planning Inspector and found to be acceptable.

Officers do not consider that the proposed changes to fenestration at second floor level in the north west (rear) or south west (side) elevations involve any significant loss of neighbour amenity.

As such officers consider that the proposals are acceptable in terms of neighbour impacts.

The proposal is therefore considered to be in accordance with Policy DE3.

4. Conservation and Historic Environment

Policy SS10 (Conservation and the Historic Environment) of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them. Also, that proposals that may affect heritage assets will be assessed in view of their impact on historic buildings and their settings. Policy HE1 (Listed Buildings) sets out the importance of ensuring that development proposals should preserve listed buildings and their settings. Policy TH10 (protection of the historic built environment) of the Torquay Neighbourhood Plan sets out that alterations to listed buildings will be supported where they safeguard their historic qualities.

Objections have been made that the proposals are contrary to policies SS10, HE1 and TH10. Also that Lincombe keep is included in the listing for Castle Tor, a Grade II listed building, and that permitted development rights do not therefore apply, meaning that permitted development application P/2022/0403 should not therefore have been approved.

Officers do not consider that policy TH10 is relevant as Lincombe keep is not a listed building.

Listing 1206820 for “Terraced gardens and all associated garden buildings at Castle Tor” was made on 18/04/85. It covers the ground that Lincombe Keep was built on around 1992. However, this does not mean that Lincombe Keep is itself a listed building. Historic England have confirmed that it is not. It also does not mean that permitted development rights don’t apply at Lincombe Keep. Permitted development rights would have needed to be removed via a planning condition when planning permission was granted for Lincombe Keep and officers are satisfied that this did not happen (officers checked this point and considered how listing 1206820 and two other listings covering Castle Tor² related to permitted development rules in determining refused application P/2021/1084). Officers are satisfied that listing 1206820 has not removed permitted development rights from Lincombe Keep and that the listing does not mean that the approval for the additional storey subject to permitted development application P/2022/0403 should not have been granted.

The nearest listed buildings to the site are Castle Tor and (separately listed) the terraced gardens and all associated garden buildings at Castle Tor. Castle Tor itself is approximately 50m away from Lincombe keep and set at a higher level. Officers do not consider that the proposals would affect the setting of Castle Tor or the separately listed gardens. There is a listed turret feature within the Registered Park & garden that forms the garden to Lincombe Keep. Here again, officers do not consider that the proposals would affect the setting of this listed feature or that the proposals would be contrary to policy HE1.

Historic England has been involved in pre-application discussions with the applicant from an early stage and commented in relation to refused application P/2021/1084 (for the additional storey) in a letter dated 02/20/22 that:

“Historic England has no objection to the application on heritage grounds. Your authority should take these representations into account in determining the application”.

² Listing 1000131 for “Castle Tor” was made on 12/08/87 and listing 1393661 for “Castle Tor” was made on 04/02/10.

A senior officer with heritage expertise commented that:

“The application is for prior approval, however, I have provided my assessment based on the heritage implications, streetscene and residential amenity. In my view, the proposal is acceptable”

The officer report for refused application P/202/1084 stated that:

“...objections refer to the site being within the curtilage of one of more of the following listings: 1206820 (Terrace gardens and all associated gardens at Castle Tor), 1000131 (Castle Tor), 1393661 (Castle Tor). Historic England has confirmed that Lincombe Keep is not a listed building but does not fall within the Castle Tor listing (1000131) only and does form part of the Registered Park and Garden.

However, although Lincombe Keep falls within the listing of Castle Tor this does not qualify it as Article 2(3) land. If listed building consent is required for any works then an application will have to be made for that prior to any works being carried out.

The Planning Statement submitted with the application states that "The Site is neither on (i) article 2(3) land nor (ii) a site of special scientific interest". Officers agree with this assessment”.

In summary, Lincombe Keep is not a listed building and is not in a Conservation Area. The impact of the proposed additional storey has been previously assessed by Historic England and a senior planning officer within the LPA with heritage expertise as being acceptable in heritage terms.

Officers consider that the changes that are proposed now to the proposed additional storey in its south west (side) elevation and to second floor fenestration in the north west (rear) and south west (side) elevations are minor in nature and do not alter the previous assessments that have been made. It should be noted that while being consulted on the current proposals Historic England has declined to comment.

In light of the above, officers consider that the proposals are in accordance with policies SS10 and HE1. As set out above, officers do not consider that policy TH10 is relevant.

5. Sustainable development

Policies SS3 (Sustainable Development) of the Local Plan and TS1 (Sustainable Development) of the Torquay Neighbourhood Plan set out guiding principles for the consideration of development proposals. Policy TS3 (Community Led Planning) of the Torquay Neighbourhood Plan sets out the importance of early engagement with Community Partnerships for major development.

Objections have been made that the proposals are contrary to these policies. Officers have considered this but do not agree. As policy TS3 refers to major development proposals it is not relevant (as the proposals are for minor proposals).

6. Transport

Policy TA1 of the Local Plan sets out high level sustainable transport aims for Torbay. Policy TA2 sets out requirements for new accesses to the highway network. Policy TA3 and Appendix F of the Local Plan states that new residential dwellings should be served by two parking spaces and that a new parking space should be provided for every two new bedrooms. Policy TH9 of the Torquay Neighbourhood Plan states that all housing developments must meet the parking requirements

contained in the Local Plan unless it can be shown that there is not likely to be an increase in on-street parking.

Objections have been made that the proposals are contrary to policies TA1, TA2, TA3 and TH9.

Officers disagree with the objections that have been made. The proposals do not involve the creation of any new bedrooms. The proposed additional storey would be used as a lounge. As such parking requirements for the site are unaffected. Existing vehicle access arrangements would also be unaffected by the proposals. Officers do not consider that policy TA1 is strictly relevant here, but certainly the proposals do not conflict with it.

The proposal is therefore considered acceptable with regards to Policies TA1, TA2, TA3 and TH9.

7. Environment

Policy SS8 (Natural Environment) of the Local Plan sets out high level objectives for nature conservation in relation to protected sites. Policy SS9 (Green Infrastructure) sets out strategic aims for integrating development with green infrastructure. Policy C4 (Trees, hedgerows and natural landscape features) sets out that proposals will not be permitted where they would seriously harm veteran or protected trees and hedgerows. Policy NC1 of the Local Plan states that all development should positively incorporate and promote biodiversity features, proportionate to their scale.

Objections have been made that the proposals are contrary to policies SS8, SS9, C4 and NC1. Reasons include the effect that the proposals would have on trees and removal of hedgerows.

Officers do not consider that policies SS8 or SS9 are strictly relevant given the scale of the proposals but do not agree in any event that the proposals are contrary to them. The proposals do not affect hedgerows or trees or protected species and so officers consider that policies C4 and NC1 are also not relevant here.

8. Landscape

Policy C5 of the Local Plan sets out the importance of Urban Landscape Protection Areas (ULPAs) and states that development within ULPAs will only be permitted where it does not undermine and makes a positive contribution to the ULPA. Policy TH10 of the Torquay Neighbourhood Plan sets out designated areas of green space where development is ruled out. Policy TE2 of the Torquay Neighbourhood Plan sets out areas of Local Green Space where development is ruled out other than in very special circumstances.

Objections have been made that the proposals conflict with these policies. Objections have been made that the proposals would affect the character of Lincombe Woods and Ilsham Green, which are both identified as Local Green Space under Policy TE2.

The site is not in a ULPA or designated green space. It does not fall with the designated Lincombe Woods or Ilsham Green Local Green Space Areas. Officers do not therefore consider that these policies are relevant.

9. Flood risk

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

Objections have been made that it is not clear how surface water run off will be managed.

The proposals do not involve any increase to the impermeable area of the site. As such officers do not consider that policy ER1 is relevant here.

10. Ground stability

Policy ER4 (Ground Stability) of the Local Plan sets out that appropriate investigations should be carried out in relation to identified or suspected ground instability.

Objections have been made that the proposals are contrary to policy ER4 as there may be a risk of ground slippage associated with the proposed additional storey and, also, as there is a perceived risk that the proposed additional storey may affect the structural integrity of Lincombe Keep.

Officers do not agree that there is any evidence of ground slippage that the proposals would be affected by. The structural integrity of Lincombe keep is not included within the remit of policy ER4. In any event officers consider that Building Regulations are sufficient to cover this.

11. Maidencombe

The Wellswood Community Partnership has raised an unspecified objection in relation to policy TH12 (Maidencombe area) of the Torquay Neighbourhood Plan.

As this policy only applies to Maidencombe it is not relevant here.

Human Rights and Equalities Issues

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

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

Local Finance Considerations

S106/CIL

S106:

Not applicable.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

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

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

Conclusions and Reasons for Decision

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

Officer Recommendation

Approval: Subject to;

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

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

Conditions

Visual appearance

The additional storey hereby approved shall be clad in materials matching those of the host dwelling, and shall be retained as such for the life of the development.

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

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.
- 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.
- 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.

Reason: In the interests of the amenities of surrounding occupiers during the construction of the development in accordance with Policy DE3 of the Torbay Local Plan 2012-2030.

Terrace

The triangular area of the roof of the second floor shown on proposed third floor drawing 20.16_PL_5.10 dated January 2023 and marked as “Area not to be used as terrace maintenance only” shall only be accessed for maintenance purposes.

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