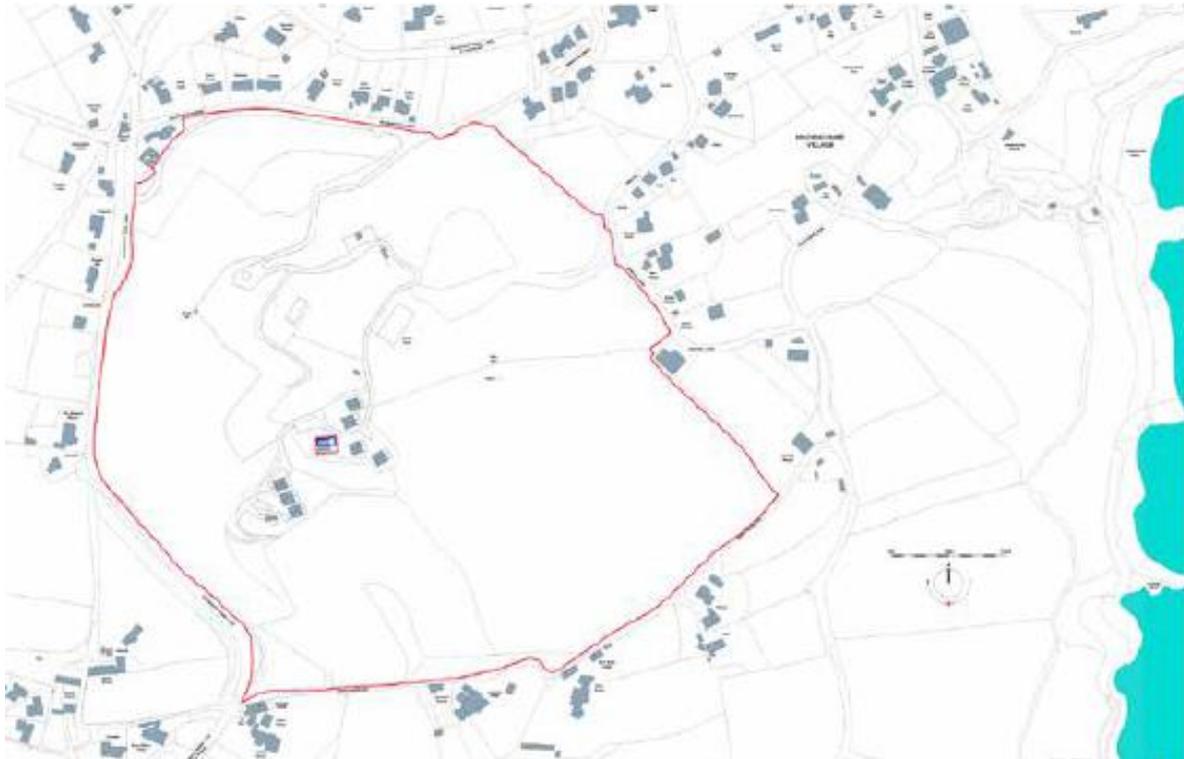


TORBAY COUNCIL

Application Site Address	Land At Sladnor Park, Sladnor Park Road, Torquay TQ1 4TF
Proposal	Demolition of existing pairs of chalets (with the exception of one pair) and the development of a Continuing Care Retirement Community comprising the erection of buildings to accommodate 43 assisted living units and 116 close care units, associated health and wellness facilities, staff facilities, internal roads, surface and underground car parking (including associated engineering operations), footpaths, ancillary buildings, landscaping, drainage works and associated infrastructure. The proposal includes a temporary access on Rock House Lane as well as works to the existing folly. This application is accompanied by an Environmental Statement. This application is a departure from the Adopted Torbay Local Plan. (Reference to Use Class C2 deleted 25.11.2019).
Application Number	P/2018/1053
Applicant	English Care Villages Ltd
Agent	Pegasus Planning Group Ltd
Date Application Valid	15.11.2018
Decision Due date	07.03.2019
Extension of Time Date	14.02.2020
Recommendation	<p>Refusal;</p> <ol style="list-style-type: none"> 1. Landscape and visual impact, 2. Poor access and sustainability issues 3. Drainage and flood risk 4. Lack of affordable housing / obligations 5. Conflict with the development plan <p>Subject to the consideration of any additional matters raised by outstanding comments from the Council's ecology advisor and Council Highway Officers.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary reasons for refusal.</p>
Reason for Referral to Planning Committee	Major Development
Planning Case Officer	Scott Jones

Location Plan



Site Details

Description / History

Sladnor Park is the site of a former country estate that held a Victorian manor house dating from the 1830/40s. The site evolved into a holiday camp post war with linear low-laying chalet development added to the south and east of the manor house, accompanied by recreational facilities including a pool and tennis court. The holiday accommodation was further supplemented to in the late 1970s / early 1980s through the provision of 8 pairs of "Scandinavian" style timber lodges set to the south of the manor house and chalets. Following the closure of the holiday camp in the late 1980s the manor house was lost to fire damage and was, together with the chalets, removed to the foundations. The timber lodges remain and through the passage of time now appear residential in terms of their ongoing use.

The site is approximately 22 hectares in size and is bounded to the north by Sladnor Park Road, the east by Brim Hill, the south by Rock House Lane and the west by the Teignmouth Road. The high point of the site is to the west adjacent to the Teignmouth Road with the low point to the east adjacent to Brim Hill. The level difference from the high point to the low point is approximately 100 metres.

In regard to the current character of the site there is extensive woodland to the western and northern areas of the site, with open fields to the eastern and southern areas.

In terms of how the site is largely experienced kinetically the heart of the site is accessed off the Teignmouth Road via a sweeping single track driveway, which passes firstly through an open glade, which then turns south through a wooded area. The drive opens up at a plateau at the location of the former manor house. The area has some hardstanding which spreads to areas of grass and scrub growth that largely obscures the remains/foundations of previous development. Open views eastwards are experienced at the point of the plateau across the lower fields of the site, towards the hamlet of Maidencombe and the coast. From the Plateau the single track drive drops eastwards before turning south and finally rising to the grouping of timber chalets and an associated parking area that serves them.

Local Character & Services

The site sits in what is best described as an undeveloped coastal landscape where rolling field systems approach the sea to the south and east of the site. There is built development interspersed within this landscape, which is typically sporadic ribbon development along roads. There is a nucleus of a development to the east of the site where the historic hamlet of Maidencombe sits. The hamlet consists of residential properties and a Public House (The Thatched Tavern).

In terms of nearby facilities the nearest 'local' shops are located in a small parade on Moor Lane around 1km to the southwest of the site. The nearest major shopping area is St Marychurch, which is about 2km to the south of the site. Further afield Torquay Town Centre is around 4.5km south of the site. There are bus stops adjacent to the western boundary along the Torquay-Teignmouth Road which are currently served by an hourly daytime service.

Heritage

There are a number of designated heritage assets nearby. To the east lies the Maidencombe Conservation Area, which includes the small hamlet mostly grouped around Rock House Lane and Steep Hill. The Conservation Area does extend north towards the Torquay-Teignmouth Road to include a scattering of 19th century villas in landscaped grounds. Within the conservation area there are 5 listed buildings, all grade II, four of which sit in the core of the historic hamlet around the village green. The fifth, an early-Victorian villa, sits above the hamlet off Brim Hill. In regard to non-heritage assets within the site sit 8 pairs of 'Scandinavian' style timber lodges. These were considered for listing relatively recently by Historic England but remain unlisted following this request.

Development Plan

In terms of the Local Plan the site sits within the designated Countryside Area (Policy C1) and Undeveloped Coast (Policy C2). The majority of the site is also identified as a Local Nature Reserve. In regard to other designations the low part of the site near to Brim Hill is part of a narrow linear flood risk area (surface water) that spreads eastwards towards the coast. The woodland to the north and west together with smaller groupings to the north, east and south of the lodges are protected under a Tree Preservation Order (TPO 2000.25).

In terms of the Torquay Neighbourhood Plan there is no formal policy designations, as it is neither identified for housing nor identified as a Local Green Space. It is relevant to note that the site sits outside the Maidencombe Village Envelope which is identified within the Torquay Neighbourhood Plan (and Torbay Local Plan).

Description of Development

The proposal is for a 'continuing care' retirement village comprising 159 units of living accommodation together with supporting health and wellness facilities.

The residential units are all self-contained apartments and are mostly two bedroom units. There is a handful of one-bed units. The application describes these units as either 'close care' or 'assisted living' units and also proposes an age-restricted form of residential use. Physically the two unit types are essentially the same in terms of design, with bedrooms, bathrooms/en-suites, lounge and kitchen facilities contained within the layouts. In terms of provision there are 116 close care units in total, 63 of which are provided within the 'village core' and 53 of which are provided within 5 freestanding apartment blocks, and there are 43 assisted living units, which are provided across 6 freestanding apartment blocks. The proposed layout includes for the provision of 168 car parking spaces, which are largely contained within the undercroft of the village core and undercrofts contained within each freestanding apartment block.

In terms of use 'assisted living' and 'close care' are both forms of specialist accommodation within the broader market of 'housing with care'. Assisted living units is a form of housing with a lesser degree of care support and heightened

independence, principally a form of sheltered housing with some care. Close care units are similar but where more care needs are generally expected, and hence they can take a slightly different form internally, i.e. have a much smaller or limited kitchen facilities for example.

The parking spaces will serve residents, visitors and staff with 95 spaces provided for residents, 48 provided for residents visitors and visitors of the facilities, and 25 spaces provided for staff and fleet car share vehicles.

The communal and support facilities included within the development are contained to the village core. Included is a manned reception area, staff office and overnight sleeping accommodation, nursing stations, resident restaurant and bar, resident café and bar, deli/shop, Kitchens and stores, gym/studio, wheelchair and mobility buggy charging/stores, hair and beauty salon, treatment/consulting rooms, laundry, and swimming pool and sauna.

Access

In term of access it is proposed that primary access to the site will continue to be obtained via Teignmouth Road, with the existing access closed and a new, widened access, relocated approximately 28m to the south of the current access point. This access will serve a new internal road that loosely runs parallel to the existing lane, which is then intended to provide a pedestrian route. A second temporary access is also proposed off Rock House Lane to provide access to the existing residential lodges during construction and a temporary access to the very early phases of the development. This temporary access will be achieved via a priority junction that would link with Rock House Lane to the south of the site.

Layout

In terms of layout the proposal presents a village core building that contains both apartments and supplementary facilities, together with 11 outlying residential apartment blocks. The village core is located in a recess to the western woodland that spreads along the higher part of the site, within an area that contained the nucleus of the previous holiday camp facilities. The 11 outlying apartment blocks are arrangement loosely around the village core in all directions, set at a distance between 15m and 135m from the village core. In regard to the broad layout proposed one block is located within the existing glade to the north of the site near to the entrance. As mentioned that village core is located in a relatively central location within the existing woodland recess with one block located immediately behind it (west) at the rear of the existing plateau. Two blocks are to the south of the village core on level ground facing eastwards with woodland to the rear (west) and a tree belt to the front (east). Two blocks are located to the north of the village core, one on either side of the drive, with a third block slightly further away to the northeast within the existing woodland. As the drive sweeps east and then south there is a block located adjacent to the lower open fields in the area of the now overgrown tennis court. The final three blocks proposed are located further south where the land rises to the area of the existing timber lodges, where 7 of the 8 pairs of the lodges are to be removed. As a note one pair of lodges sits outside the application site and hence doesn't form part of the application.

Scale

In terms of scale the village core is a staggered 10-storey complex with an overall building height of around 35m. The lowest level provides a pool, above which there are 2 parking floors. There are then 2 floors with a mix of services and accommodation, above which there are 5 floors of accommodation.

In regard to the freestanding apartment blocks moving through the site from the entrance the block within the glade near the entrance is a 4-storey split level building with a building height just under 13m. The freestanding block to the rear of the village core is a 6-storey building that is approximately 19m high. The two blocks to the south of the village core are a similar scale. North of the village core the two blocks that flank the drive are 6-storeys (19m high) and 5-storeys (15m high). The block within the woodland further to the north is another 6-storey building that is 19m high. Sweeping south the block on the location of the former tennis court adjacent to the lower fields is 5-storeys and 15m high. The final group of three blocks within the locations of the timber lodges are again split level with two blocks being 6 storeys and one block being 5 storeys. The maximum building heights for these blocks is between 13m to 18m.

Appearance

In terms of appearance the stated aim of the design and materials palette is to harmonise with the natural tones of the surrounding landscape, principally seeking to blend the buildings into the woodland backgrounds.

The proposed materials broadly comprise natural stone, silver-grey timber cladding, rainscreen cladding with red tones, olive-green metal cladding, dark grey windows, dark grey standing seam roofs, sedum roofs, and occasional white render.

Associated works

In terms of associated works the development proposes a 'temporary' access created across the southern fields, from behind the area of the existing lodges to Rock House Lane. This is detailed as retained as a pedestrian access and emergency access after occupation. Woodland management timber stores are proposed, as is the creation of circular footpaths and interconnecting footpaths. There are aspirations to restore the Victorian folly located within the woods adjacent to the Teignmouth Road, and to provide woodland management and landscaping.

Pre-Application Enquiry

DE/2018/0056 Summary Points:-

Use: The policy landscape relevant to the proposal is partly dependent on the determination of whether the proposal provides housing (C3) or whether it is a residential institution in terms of a care facility (C2). Indicated the Authority's current position is that the development appears to provide sheltered housing as a retirement village that provides associated facilities, and thus Affordable Housing applies.

Policy: Emerging Neighbourhood Plan currently contains a number of references to the Sladnor Park site, a number of which would have the effect of constraining development within the site. If the policies relating to Sladnor Park are not substantially modified, the effect would be that those policies would be provided significant weight and would heavily constrain development.

Landscape impact: Overall, the visualisations provided show an increased scale and massing in the current design proposals when compared to the 2008 / 2009 consented scheme. The result is likely to be an increase in visual impact and gives rise to concerns that the current proposed development would result in an undue adverse impact on the secluded character of the Maidencombe Area of Local Character within the Countryside Area and Undeveloped Coast. As matters stand there are substantive concerns over the scale height and massing of the development, and its creep out of the natural wooded enclave.

Ecology: There would appear to be no direct constraints to the general form of the development proposed and therefore the key issues are matters of appropriate design, management (construction and post construction) and mitigation in order to protect protected species, key habitats and also secure a net gain in terms of biodiversity.

Arboriculture: Specific concerns arise where spatial separation or actual removal of parts of group TPO trees or individual trees is necessary to allow construction. View pressure is considered a serious constraining concern where trees are proposed for retention between units and desired sea views.

Flood risk: Policies ER1 and ER2 of the Torbay Local Plan apply. It would appear that the contours are challenging in terms of providing soakaways as steeply sloping land can present problems in terms of water resurfacing.

Access: Further work could look in to increasing visibility if the access was moved towards the Torquay direction with slight adjustments to a boundary wall. This would make the access to be more acceptable. Parking could be reduced.

Health: On the basis of the proposal and evidence submitted it is likely that the position should be to secure a local restriction (in perpetuity) on occupation of the units in the first instance. If no local occupancy restriction is provided or we can't be satisfied that it can be secured in perpetuity then the contributions via S.106 should be sought. Guidance is provided within the SPD but we will need to interpret those figures in the context of the use class and the development proposal in arriving at a figure.

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

Material Considerations

- National Planning Policy Framework (NPPF)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Maidencombe Conservation Area Character Appraisal
- Planning matters relevant to the case under consideration, including the following

advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

Applications

P/2006/0474: (Outline) Redevelopment to Provide "Retirement Village" (Class C2) Comprising 24 Independent Living Units, 92 Care Suites, 90 Bed Care Unit, Associated Healthcare, Leisure And Restaurant Facilities. Retention Of 3 Pairs Of Existing Lodges; Landscaping And Parking. Approved 21.06.2006.

P/2007/1410: Redevelopment To Provide "Retirement Village" (Class C2) Comprising 24 Independent Living Units, 92 Care Suites, 90 Bed Care Unit, Associated Healthcare, Leisure And Restaurant Facilities. Retention of 3 Pairs of Existing Lodges; Landscaping and Parking (Details Pursuant To Outline). Approved 29.11.2007.

P/2008/1418: Amendments to previous approvals (ref P/2006/0474/MOA and P/2007/1410/MRM) relating to mix of accommodation, elevational treatment and floor space. Approved 19.12.2008.

P/2009/0240: Reserved matters submission in respect of ten independent living units as part of Retirement Village. Approved 29.06.2009.

P/2020/0315: (CLOPUD) Completion of a 188 unit 'retirement village', associated healthcare, leisure and restaurant facilities, retention of three pairs of existing lodges, landscaping and parking, pursuant to P/2008/1418/PA and P/2009/0240/MRM. Refused 09.06.2020. Appeal in progress.

Reason for refusal:

- i. evidence has not been submitted to demonstrate that a material operation was undertaken to commence planning permission P/2008/1418/PA, as a result that permission has now lapsed,
- ii. P/2009/0240/MRM cannot itself provide the lawful basis for any works,
- iii. the only works that have been undertaken at Sladnor Park (namely works to construct part of the access driveway carried out in December 2011)
 - a. were authorised by permission P/2006/0474/MOA ('the 2006 Permission'); but
 - b. were carried out after that permission had lapsed
- iv. because no lawful commencement of development has been carried with respect to the Development, there is no extant planning permission for it, and any continuation and/or completion of the Development would not be lawful.

Design Review Panels

7th November 2016

Conclusions: Broadly supportive of the revised proposals as a replacement for the approved scheme and it appears that the new strategy is not markedly different in terms of visual impacts. We understand that inclusion of the housing in the northern portion of the site is a new departure, and whilst we do not rule this out, the current

proposals seem rather casual and comparatively ill conceived. There are in fact many detailed issues still to resolve and we hope that observations included are helpful in drawing attention to and tackling these. Until we see the outcome of that further development of the design, we reserve judgement on the final quality that is likely to be achieved.

28th July 2017

No Specific conclusions, various comments, key summary points drawn out as;

- Continue to recognise the sensitivity and challenge of the site.
- The HAPPI (Housing our Ageing Population Panel for Innovation) report continues to be the most reliable guide for this type of project and trust that its recommendations will be followed as the design progresses.
- The model was a valuable tool. The consented scheme as a similar model would aid understanding.
- Whilst not noted directly previous guidance had been faithfully considered and acted upon providing various improvements.
- No immediate concerns on the evidence presented regarding visual impact.
- Support the general approach to the landscape design which was described as being a 'rough grassland park setting'.
- The idea of a formal layout of exotic planting in the raised courtyard could certainly be a successful approach.
- Pleased to see the various measures to answer the challenge of protecting the ecology of the site.
- The arrangement of buildings now at the site entrance is a great improvement on the earlier proposals.
- Discussion revealed an ambiguity within the layout and the way in which it manages links between public, semi-private and private space.
- The pavilions have again improved in their individual building anatomies, but we are not convinced that the layout of the three blocks in the combe to the South of the 'village centre'. The model showed that the massing here is not resolved as a good composition and we conclude that this part of the layout needs revision.
- The notion of the route dividing two related blocks is engaging, but we are a little concerned that the accommodation in the rear (northern-most) block may be lacking in quality.
- Whilst the general appearance arising from the materials and detailing is encouraging, suggest that a complex of this size if handled as a single architectural language might generate an unfavourable even character, especially given the different settings within the site and the range of typologies that has begun to emerge. A normal 'village' after all is quintessentially a heterogeneous collection of individual buildings and whilst we are here clearly dealing with a 'planned' village, we believe that a more comfortable fit and de-scaling of the sense of place created within the development could be helpfully achieved. The central complex of buildings are fairly bulky and generate an almost institutional massing. Consideration could usefully be given to how they might be broken down into smaller elements in order to create a more human scale. Breaking the mass down may also help with phasing and repurposing at some time in the future.
- Pleased to see that the parking provision is much more successfully integrated than at the previous review. Still some nervousness about the grillage that

- presents out towards the landscape.
- There appears to be very few places for vehicle turning and, given the gradients, the interaction with reversing vehicles and elderly residents is worthy of careful consideration.
 - Light spillage could be considerable and this needs to be mitigated if at all possible, since it will impact on the ecology as well as views into the site at night-time.

Summary of Representations

231 representations have been submitted. There is an overriding level of objection over support, with only 4 submissions supporting the development. The following provides a summary of the main issues identified and where appropriate a summary response is provided by the planning officer. Where appropriate the issues raised are discussed further in the Key Issues / Material Considerations section of this report.

The concerns raised in the objections are as follows:

- Contrary to the development plan
- Contrary to the neighbourhood plan
- Not affordable for locals
- Impact of inward migration on health services
- Impact on GPs etc
- Increased flood risk
- Loss of trees and impact on flood risk
- Impact on wildlife
- Impact on bats
- Not a sustainable location
- Impact upon the countryside
- Impact upon the landscape
- Impact upon heritage assets
- Carbon footprint not aligned with the 'climate emergency'
- Traffic increase
- Isolated location is inappropriate
- Poor options for sustainable modes of local travel
- Access is dangerous
- Single access will present increased highway danger due to the extent of use
- Scale totally out of context
- Lighting impacts unacceptable on what is a dark landscape
- The 'fallback' position has expired and isn't a 'fallback' position
- Should provide affordable housing
- The 'need' is overstated

Objections include comments from:

Maidencombe Residents Association.

A number of objections have been submitted highlighting extensive issues with the development and extensive conflict the development has with the development plan.

Torbay and South Devon NHS Foundation Trust:

Torbay and South Devon NHS Foundation Trust (the Trust) is currently operating at full capacity in the provision of acute and planned healthcare. This development will have a detrimental impact on the Trust's ability to continue to deliver services with required quality standards and timeframes. The following year's contract does not pay previous year's increased activity and the deficit created by the impact of the development. The contribution is being sought not to support a government body but rather to enable that body to provide services needed by the occupants of the new development. The funding as outlined below, cannot be sourced from elsewhere. The lack of contribution will create a long term impact on the Trust's ability to provide service required to those who live in the development and the community at large. Without the contribution, the development is not sustainable and should be refused. Therefore the contribution required for this proposed development is £140,658.00. This contribution will be used directly to provide additional health care services to meet patient demand.

Objections include comment from the 20th Century Society

We recognise that one pair of lodges is not located within the application site, however the value of the group as a whole is significant in expressing the Park's former function as a holiday village, a historically important building typology that is becoming increasingly rare. The lodges hold substantial local value and it is our view that they should be preserved in line with the above Local Plan policies. The National Planning Policy Framework (2018) similarly states: 192. In determining applications, local planning authorities should take account of: a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation; We therefore consider it to be appropriate for the group of lodges to be retained within the proposed scheme, reflecting their contribution to the historic character of Torbay and as an example of Seal's accomplished skill in designing buildings closely attuned to the setting of England's South West. The Society wishes to object to the above scheme on these grounds, and welcomes a revised scheme following our recommendations.

Summary of Consultation Responses

QC Legal Advice

The proposals do not constitute a Class C2 use and advise that a more appropriate description (in terms of Use Class) is a sui generis use with elements of Class C3.

The historic permission is considered to have lapsed, is no longer implementable, and hence does not present the applicant with a 'fallback' position.

Torquay Neighbourhood Forum

Fundamental objection. The proposed development is considered a complete departure from the development plan. Principal issues relate to that fact that the site is not an allocated development site and is within the countryside, is sensitive in terms of the environment and landscape, and is poorly located and not suitable for a care facility due to the isolated nature and lack of access to broader community facilities.

The lack of affordable homes is also raised as a concern as is the lack of affordability for locals and the resulting inward migration that is considered likely.

Torbay Council Strategic Planning (Policy) Officer

The proposal should be counted as a housing scheme and such provision is a significant benefit in favour of granting planning permission. Affordable housing would be liable though.

There is significant conflict with the adopted development plan and some obvious conflict in terms of the scale and massing in the countryside and valued local landscape. There is also conflict in terms of locating a care village in a steep and relatively remote location away from local communities.

A retirement/care village was approved under the previous Local Plan and this should be a material consideration.

There is a strong case to argue that the adverse effects of granting permission for the current scheme would significantly and demonstrably outweigh the benefits.

Torbay Council Strategic Planning (Health) Officer

The supporting documents evidencing need are divergent to local assessments and the formula used does appear to have overestimated the level of need in the area.

The application does propose a significant amount of care-based housing and it is clear that it would contribute substantially towards delivering against the need. However the scale of need is not so great as to suggest that the application alone itself would be crucial in terms of meeting unmet need between now and 2035.

The benefit of the supply of care units should be tempered against the isolated and poorly assessable location of the site, which runs counter to guidance towards such housing being centrally located close to community facilities and services, with good access to sustainable modes of transport. This is engrained within policies in both the local and neighbourhood plan.

The offer of potential use of the facilities for broader health provision is not supported by local care partners (e.g. the use of GP practice rooms, etc.) and it is considered that the relatively isolated location of the site is a key factor to this.

The Planning Contributions and Affordable Housing SPD sets out a S106 contribution rate to partially mitigate the impact of such facilities which in the case of extra care amounts to £1,300 per unit (where they do not have a local restriction). If this was applied to every unit at Sladnor Park, the contribution may amount to £206,700.

Torbay Council Strategic Planning (Transport) Officer - Incorporating the views of the Highway Authority

In regard to the main access concern is raised on the visibility splays that are currently achieved. Comment on the recently amended location and design specification, further south, is awaited and an update will be provided.

In regard to the secondary 'temporary' access there is uncertainty on potential conflict with pedestrians using this route and potential highway safety concerns, depending on the level of future use, which is unclear.

The challenging topography of the site may present issues of movement for occupiers, which may encourage car usage.

The isolated location and nature of the roads locally and into Torquay is likely to present a development that is dependent on the use of the private car, as it would not offer truly sustainable transport options. The isolated nature of Maidencombe is known to result in generally high levels of car ownership and use. It is noted the bus route is hourly and only operates during the day. The dependence on the private car will impact residents, visitors and people employed within the development alike.

The traffic assessments are not considered truly robust as comparison sites are not similar to this development, with some clear divergence in terms of location and accessibility.

Torbay Council Drainage Engineer

The revised surface water strategy to pump to the public sewer and connect on the Teignmouth Road remains unacceptable. It does not provide confidence that the risk of flooding to land or buildings adjacent would not be increased due to the absence of necessary storage within the system to cope with sustained storm events, and the lack of certainty/confidence on maintenance and contingency detail, and the potential for the additional measures to be unable to ensure against additional flooding to the east.

Torbay Council Interim Landscape Officer

The primary character of the locality is one of countryside interspersed by a fine grain of modest built development. The key characteristics of this type of landscape are archetypal rural descriptions that hark towards an unspoilt, tranquil and remote rural area.

The perception of residents and visitors to the site of the landscape is material and this perception will undoubtedly be influenced by the scale of the development proposed. The resultant development will as a consequence significantly change the character of the area.

The landscape assessment provided as part of the application does not illustrate the proposed and historic permission in a balanced manner, comparing across fully rendered elevations in contrast to the previously approved scheme which is shown in block form. Although the previously approved scheme is not without harm to the landscape the impact would be likely to be much softer than that portrayed in the landscape assessment.

The scale and spread of the development is very urban in nature and will start to erode the character of the area and appears to be in direct conflict with the Undeveloped Coast Policy objections. It is suggested that the magnitude of impact is underestimated.

The introduction of buildings of the scale proposed would be a stark contrast to the existing development on the site, which is relatively low level and of a scale more appropriate to the context. The heights of the proposed development is alien to the context and would appear as an entirely unexpected feature in a protected landscape location.

It is concluded that the proposed scale and design of the development will cause a significant and harmful impact upon the undeveloped coast. It is noted that external lighting and internal lighting will also have a cumulative impact.

Torbay Council Arboricultural and Landscape Officer

Although the proposal can be physically constructed insufficient detail has been considered to the wider issues associated with the development of the two blocks should it proceed. Recommendation the proposal of developing 2, 6-storey blocks is not sustainable from an arboricultural perspective.

The relationship of the buildings to the trees does need to be considered further as there is a perceived threat/risk that trees and tree belts that obstruct open views could lead to future pressure to fell trees.

Generally in regard to additional comments the loss of the ash trees will lead to areas within the woodland that are opened up, potentially lead to increase in windthrow of the adjacent trees and creating the unwanted coupes. Whilst replanting of these areas will be necessary any further thinning of the woodland is likely to lead to a reduction in the canopy cover. The thinning proposals for the viewing cone are likely to be insufficient and a desire to want more trees removed may well be forthcoming in the form of further applications for tree work or illegal felling.

The heavy thinning to open up views from the folly would result in significant tree loss from the woodland and the potential to disturb the natural ecology of the site. This is counter to responding to the 'climate emergency' and with the additional pressures of Ash Dieback more widely it should be noted that Torbay potentially losing up to 30% of its canopy cover through the loss of the Ash tree.

Summary that the necessary detail still required may result in the scheme not being deliverable without significant on site changes during the construction phase, which may result in extra tree loss/damage.

Torbay Council Interim Heritage Officer

The site has a close relationship with Maidencombe Conservation Area located to the north east, which within sit a handful of listed buildings.

The proposed development will introduce large scale buildings which will be alien to the character of the locality and the setting of the Conservation Area and its associated listed buildings. In terms of the degree of harm it is considered that this will cause harm of a scale which could reasonably fall within the less than substantial category.

The lodges within the site are also heritage assets albeit undesignated. The removal of the lodges will result in harm, the harm would be less than substantial but nevertheless needs to be accounted for as part of the planning balance.

The 19th century folly is also a non-designated heritage asset and its repair would be considered as a heritage benefit.

Whilst the benefits of restoring the folly as a non-designated heritage asset should be regarded as being a positive, this does not outweigh the harm to heritage assets identified. Conclude that the resultant harm should be considered as less than substantial and therefore weighed as part of the overall planning assessment as required by the NPPF.

Devon County Archaeologist

The proposal is sited in an area of archaeological potential. A mansion at Sladnor was built in the 1770s. The parkland also contains the earthworks of a medieval field system.

The impact of development upon the archaeological resource should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development. A Written Scheme of Investigation (WSI) should be submitted prior to determination or an approval should carry the condition to secure one.

Torbay Council Ecology Advisor

In terms of general broad ecology issues it is considered that the applicant has provided a thorough and robust ecological assessment overall with only some minor issues which could be agreed following determination, i.e. through conditioned amendments to the LEMP.

Notwithstanding the above the reptile mitigation is considered inadequate and more detail with regards to the reptile mitigation and monitoring is needed prior to determination. Revised ecology information is currently being considered and an update will be provided on this point.

In regard to European sites a Habitat Regulations Assessment / Appropriate Assessment has been undertaken to assess likely impacts. It has been positively concluded that there would be no significant effects subject to the agreed mitigation being secured.

Natural England

Having considered the Authority's draft HRA/AA Natural England concur with the assessments conclusions, of no significant effect, providing that all mitigation measures are appropriately secured in any planning permission given.

Torbay Council Affordable Housing Team

Torbay Council's affordable housing policy requires 30% affordable housing to be provided on Greenfield sites and 20% on Brownfield sites. With an estimate that around 80% of the development is Greenfield on a scheme of 159 units we would expect to see an affordable housing provision of 44 units.

Provision of the affordable housing will be sought on the basis of 1/3 Social Rent, 1/3 Affordable Rent and 1/3 Shared Ownership and the provision should also include 2 wheelchair adapted units.

Torbay Council Environmental Health Officer

No objection subject to a condition requiring a construction / demolition management plan being submitted for the approval of the L.A. prior to commencement of work.

South West Water

South West Water has no objection.

Environment Agency

No objections subject to inclusion of conditions which address concerns over issues related to groundwater and contaminated land. We have no outstanding issues with the Flood Risk Assessment.

RSPB

The RSPB currently objects to this application because in our view the mitigation measures proposed are not sufficient to ensure no adverse impacts on curlew buntings. We have recommended amendments that we consider will give greater confidence that adverse impacts can be avoided, particularly on curlew buntings, and benefits provided. If these amendments can be agreed and secured, eg, via conditions or obligations on any permission, we will withdraw our objection.

Police Designing Out Crime Officer

From a designing out crime, fear of crime and disorder perspective crime prevention through environmental design should be fully considered and implemented wherever possible. Parking provision should be duly considered. It would seem that the owning of private vehicles remains the preferred method of transport for many, regardless of the any proximity to local amenities.

Historic England

We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.

Key Issues/Material Considerations

Planning Officer Assessment

1. Principle of Development
2. Design, Landscape and Visual Impact
3. Access, Movement and Highway Safety.
4. Drainage and Flood Risk
5. Ecology and Biodiversity
6. Impact on Heritage Assets
7. Residential Amenity.
8. Low Carbon Development

- 9. Housing Supply
- 10. Care and Health Provision
- 11. Economic Impacts

1. Principle of Development

1.1 As previously outlined the proposal is a major development proposal in the form of a 'care village' that is located outside of the settlement boundary, within designated 'open countryside' (Policy C1) and 'the undeveloped coast' (Policy C2 - The Coastal Landscape).

The Local Plan

1.2 The Torbay Local Plan sets out a number of key strategic objectives for planning and development.

1.3 Policy SS2 (Future Growth Areas) cites that 'all major development outside of the established built-up area should be within the identified Future Growth Areas. Major development outside of these areas will only be permitted where the site has been identified by the relevant Neighbourhood Plan or a subsequent development plan document'. The site is not identified as a housing site or likewise a care facility within the Torquay Neighbourhood Plan.

1.4 Policy C1 (Open Countryside) states that within open countryside away from existing settlements and rural areas surrounding the three towns, development will be resisted where this could lead to the loss of open countryside or creation of urban sprawl or encouraging the merging of urban areas and surrounding settlements to the detriment of their special rural character and setting. The policy furthers that major new development should focus on Future Growth Areas in the Strategic Delivery Areas, consistent with the ambition and policies of the Local Plan. It cites that development outside the main urban areas and Strategic Delivery Areas will normally only be permitted within the established boundaries of villages and hamlets, provided that it is of an appropriate modest scale and consistent with relevant Local Plan Policies, including those relating to landscape, recreation, biodiversity, design and conservation. The policy cites 8 forms of development that may be permitted outside of settlement boundaries, provided that the rural and landscape character, wildlife habitats, green corridors and historic features are not adversely affected and necessary mitigation measures are carried out to minimise any harm to the environment. The forms of development do not include care villages or major housing schemes and the principle is counter to this policy.

1.5 There is considered to be clear conflict with key local plan policies SS2 and C1 which states that major development such as this should be confined to the built up area or identified Future Growth Areas. However there are also strategic policies that present more of a mixed position.

1.6 Policy SS1 (Growth strategy for a prosperous Torbay) sets out a wider growth strategy regarding the delivery of homes and jobs. The policy cites that identified Strategic Delivery Areas are the foci for the delivery of growth and change in the Bay. The policy does however cite some reference to when major development comes forward outside of these areas and states that such proposals will need to be the

subject of environmental assessment, to take account of the impacts of the proposed development itself and the cumulative impact of development. The policy also references that communities are to have a greater influence in determining how development in their area will look and feel, specifically through the new framework of neighbourhood plans. The development hence presents some clear conflict with Policy SS1, however there is some intimation that where development proposals do not accord there is a policy-driven assessment to ascertain the impacts.

1.7 Policy SS3 largely restates the NPPF's presumption in favour of sustainable development and the positive and proactive approach when considering development proposals. The policy supports finding sustainable solutions that enable development proposals to be approved, where they will evidently provide a balanced approach to improving economic, social and environmental conditions. The clear guidance in Policy SS3 is that planning applications that accord with the policies in this Local Plan (and, where relevant, with policies in Neighbourhood Plans) will be approved, unless material considerations indicate otherwise.

1.8 In accordance with legal advice the proposal presents a mixed-use scheme, which is the sum of residential units (dwellinghouses) and the accompanying care and leisure facilities, that in-the-round, presents a 'care village'. As such the proposal does provide housing and policies related to housing are therefore relevant.

1.9 Policy SS13 (Five year housing land supply) sets out the Local Plan's declaration to maintain a rolling 5 year supply of specific deliverable sites sufficient to meet a housing trajectory of 8,900 dwellings over the Plan period 2012-30, including an allowance for windfall sites. Where the supply of specific deliverable sites (plus windfall allowance) falls below this figure, the policy cites that the Council will consider favourably applications for new housing, consistent with Policy SS2, H1 and other Policies of this Plan. The Council can currently only demonstrate a three year housing supply. On this basis the need for housing and economic development must be given significant weight, as the Council is unable to demonstrate 5 years' supply of housing and Policies SS3, SS13 and H1 seek to consider favourably applications for new housing (consistent with other Plan policies) in order to maintain a five year supply of sites.

1.10 In regard to strategic advice relating to the provision of 'care' Policy H6 (Housing for people in need of care) cites that the Council will support measures to help people live independently in their own homes and to live active lives within the community, subject to other Policies in the Plan. This is to be achieved through three strategic 'measures'. The second 'measure' in the policy is that new sheltered housing (within Use Class C3) will be supported where it is within easy reach of community facilities, shops and public transport. This will be discussed in more detail within subsequent sections of this report however the site is outside of the settlement boundary in designated 'open countryside', some distance from community facilities and shops, which presents some conflict in terms of the location. The third measure in the policy cites that new care homes or retirement villages will only be approved where (i) clear evidence of need is provided with the development proposal; (ii) they are accessible to facilities and public transport; (iii) they will not harm the creation or retention of mixed and balanced communities; (iv) they will not add undue pressure on local healthcare or social services. These matters will be discussed in more detail

within subsequent sections however again, the location of the site outside of the settlement boundary in designated 'open countryside' presents some evident conflict in terms of its location.

Torquay Neighbourhood Plan

1.11 Policy TH1 (Housing Allocations) builds on the Local Plan's allocation of housing sites within Future Growth Areas and presents a comprehensive list of all of the housing allocations in Torquay during the plan period. The site is not allocated for housing within the Torquay Neighbourhood Plan.

1.12 Policy TH5 (Sustainable later life homes) cites that new residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities. This will be discussed in more detail within subsequent sections of this report however that site's location outside of the settlement boundary in designated 'open countryside' presents some evident conflict in terms of its location.

1.13 Policy TH12 (Maidencombe area) provides specific guidance for the area and it cites that Major developments in C1 countryside, outside the Village Envelope, will not be supported. It furthers that any greenfield development will be resisted unless it is compatible with the rural character and setting and it fits within the constraints of the existing landscape and visual character of the area. There is clear conflict with the expectations of this policy, which does not present strategic support for major development. Compatibility with the rural character will be discussed in detail within subsequent sections of this report.

1.14 In regard to further policy advice Policy TS1 (Sustainable Development) cites that the Torquay Neighbourhood Plan provides a framework which contributes to the achievement of sustainable development in Torquay, and that development proposals should accord with the policies contained in the Torquay Neighbourhood Plan, where relevant, unless material planning considerations indicate otherwise. As cited above there is some demonstrable conflict with key policy guidance.

1.15 Finally Policy TS4 (Support for Brownfield and Greenfield development) cites that development proposals for brownfield sites will be supported, providing there are no significant adverse impacts, having regard to other policies in the plan. The policy furthers that development of greenfield sites can have an adverse impact through the loss of green space, so will be supported where this is an allocated site within the Plan or the loss is required to meet the strategic economic policies within the Local Plan. The site is considered largely greenfield, is not allocated and the development is not directly connected to meeting strategic economic policies. There is hence clear conflict with this policy.

1.16 Although not a policy the Neighbourhood Plan does cite a formal 'Community Aspiration' for Sladnor Park. This aspiration is material consideration. The summary position of the aspiration is that the scope of any new development be limited and must be within the policy umbrella for the whole of the Maidencombe area and the C1 designation within the Local Plan, that does not support major developments, and that

new development should be constrained to that part of the site of the existing chalets and designed to have minimal visual and environmental impact (noting that the typical design of properties in the Maidencombe area comprises one or two storey detached houses of individual and historic designs). The proposal, due to its extent and scale, presents some clear conflict with the principles of this community aspiration.

1.17 It is noted that there is a widely reported concern in public representations that the development is clearly and markedly in conflict with the development plan and should be refused due to the extent of conflict with the Neighbourhood Plan and Torbay Local Plan.

1.18 Due to the reasons stated above there is deemed to be in broad policy conflict with the development plan, where there is a consistent policy umbrella that suggests that a major development such as this care village, is not supported outside of the settlement boundary with the open countryside and undeveloped coast. The principle of the development, to provide a care village as proposed, is therefore not supported, when considering strategic Policies SS1, SS2, SS5 and SS12 of the Torbay Local Plan and Policies TS1, TS4, TH5 and TH12 of the Torquay Neighbourhood Plan, and the Development Plan as a whole. This is purely a matter of principle and the broader merits of the proposal and other material considerations, will be discussed in more detail in the following sections of the report below.

1.19 Relative to the considerations above the NPPF guides on a presumption in favour of sustainable development. For decision-taking this means approving development proposals that accord with an up-to-date plan without delay. It also means that where there is a housing land supply shortfall below 5 years granting permission unless (i) the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole. The 'tilted balance' in favour of housing development is enacted in this case as the Council cannot currently demonstrate a 5 year housing land supply, which is a material consideration that this report will seek to cover more broadly in the assessment and ultimate recommendation in terms of the 'planning balance'.

The Council's most recent Housing Position Statement indicates a 3 year housing land supply in which case Torquay Neighbourhood Plan policies retain full weight.

2. Design, Landscape and Visual Impact

Policy

2.1 As detailed the site is in the open countryside and the undeveloped coast, as designated by the Torbay Local Plan. The site generally displays a verdant and undeveloped character dominated by extensive woodland and open pastures. There are pockets of developed land but these are considered somewhat restricted, limited to the meandering access road and hardstanding plateau where the Victorian lodge once sat, and the grouping of timber lodges that exist further to the south and their associated car parking area. There are areas beyond these locations that have previously held development however any former development has been removed or

has blended into the landscape to the end that these areas appear undeveloped. The extent of vegetation is such that it is currently the opinion that these areas are no longer considered 'brownfield' when considering the NPPF definition of previously development land.

2.2 The Torbay Landscape Character Assessment (May 2010) categorised the area as 'Coastal Slopes and Combes' (Area of Local Character: 8B Maidencombe). The assessment described the area as being largely defined by a combe that forms a broad bowl facing the sea that includes the attractive village of Maidencombe (a Conservation Area) nestling within the lower part. There is appreciation of there being a loose concentration of houses, the impact of which is softened significantly by vegetation. It also detailed that land-cover is a mixture of woodland, grassland and scrub, much being of local or county wildlife significance and the assessment categorised the overall landscape sensitively as 'highly sensitive'. It furthered that, in terms of capacity to accommodate change, the well wooded nature of Sladnor Park is likely to help limit the impact of potential development, but furthers that the land forms an important setting for the village and Conservation Area and any changes should be only limited in nature, and strictly controlled to ensure that the secluded character of the area and setting of the village is not harmed.

Context

2.3 The site is visible in-part from a number of public views.

2.4 There are a number of immediate glimpsed views from along Rock House Lane to the south, which runs along the length of the southern border of the site. The tree lined hedge banks along this border with the highway obscure views for the most part whilst travelling along this road, however there are openings and thinner sections where views northwards are possible across fields to the wooded alcove and ridge of trees behind.

2.5 There are views from Brim Hill to the east of the site looking westwards up across the lower fields. The existing Lodges are clearly visible from the public highway, as is the outer edges of the central alcove and the intervening land linking the two.

2.6 There are public views slightly further east from the Village Green and the adjacent public orchard. There are also views from the adjacent field that appears to have a well-trodden public route. This is not a known public right of way though. Adjacent to the village green there are also glimpsed views of the lodges from the outside seating area of the Thatched Tavern Public House.

2.7 Further east again there are westward views from a section of the South West Coastal Footpath (SWCP) where parts of the site, including the existing lodges are clearly visible. Off the SWCP there are also views from the signposted Circular Walk through a gate opening across the rooftops of the hamlet, again the lodges are clearly visible.

2.8 In addition it is relevant that the site would also be clearly visible from the sea.

2.9 The site, beyond its borders, is not opening visible from the north or west due to the topography of the land and the extensive nature of the tree belt the sits on the higher part of the site.

2.10 To conclude the key views are the views from the south and east, the key ones noted above, which individually and accumulatively inform the kinetic experience as you pass through the area either by foot, by car, or by both. There is a significant level of public concern regard the impact upon the landscape character of the area.

Impact

2.11 The proposal seeks to introduce a significant amount of development within the site. The development proposes a Village Core with residential units, parking and complementary services and facilities within a 10-storey staggered building complex, which to the eastern (open) outlook presents a building complex that is approximately 35m in height. Four storeys are below the plateau level and 6 storeys are above the plateau level. In addition to the Village Core there are 11 freestanding residential blocks, which are mostly either 5 or 6 storeys high, giving a prevailing building height of these blocks of 16m-19m.

2.12 The proposal is supported by a Landscape and Visual Impact Assessment (LVIA). The assessment is made in regard to the effects on the current baseline conditions, i.e. as the site and area as it stands, but also provides commentary as a comparison with the earlier consented scheme for a care village. It should be noted that the previously consented scheme has lapsed and does not provide a 'fallback' position as detailed within the applicant's broader submission. Notwithstanding this the previous decision is relevant as a material consideration and remains relevant to some extent. The submitted LVIA concludes on the effects on the landscape resource and the landscape character, the findings of which are summarised below.

2.13 In terms of the baseline position the submitted LVIA concludes that the magnitude of change on the landscape as a resource would be 'slight-neutral'. This is principally reasoned due to the retention of the land uses and predominant use of previously developed areas. When accounting for the landscape enhancements that are proposed though the LVIA concludes far more positively, in that the overall effect would be 'major beneficial'.

2.14 In terms of a comparison with the previously consented scheme the LVIA counts on 'many enhancements' with none lost, and concludes that the effect of the proposed scheme over the previously consented scheme would be 'slight beneficial'.

2.15 In regard to the effects on the landscape character the LVIA concludes that the sites landscape character is of only medium sensitivity and has a medium susceptibility to change due partly to its strength and extent, and partly to its degraded condition. This informs the conclusion that the magnitude of effect of the proposed built development on the site's existing character is considered to be 'moderate', balanced to 'slight beneficial' when considered aside the landscape components of the proposal.

2.16 In terms of the effect on the landscape character compared to the previously consented scheme it is suggested that the effect would be 'slight-moderate beneficial'. This is informed by the assertion that the footprints are similar and where they are not any perceived encroachment is limited due to discreet locations. It also points to improvements due to fragmentation of the development and enhanced architectural treatment.

2.17 The LVIA also covers the impact of light resulting from the development. It concludes that in terms of the current situation the effect would be 'slight adverse' due to the provision of 'some' night-time lighting and the containment of the site due to topography and vegetation. When compared to the previously consented scheme the report concludes that the impact would be neutral though.

2.18 Through the course of the application the proposals have been considered by the Council's Senior Tree and Landscape Officer and the Council's Assistant Director of Planning in the function of an interim landscape advisor. A substantially similar scheme presented within the precursory pre-application enquiry in 2018 was also subject to comments from a Landscape Officer at Jacobs.

2.19 The interim landscape advice received concluded that the consideration of two baselines was logical and this appears a reasonable assumption, insomuch that a parallel assessment provides some relevant commentary on the historic decision made by the Council within a broadly similar policy background in terms of landscape policies and their aspirations of the local plan (The 1995-2011 TLP compared to the current 2012-2030 TLP). There is obviously some material change to the development plan in terms of the introduction of the Torquay Neighbourhood Plan and also the publishing of the Torbay Landscape Character Assessment (2010) though to consider. The parallel assessment holds less weight than generally purported within the applicant's submission as the applicant has roundly concluded that the historic permission is a reasonable 'fallback' position. The Council, in-line with the recent decision on a Certificate of Lawful Development application, maintains that the historic permission has lapsed, cannot be built out, and hence any landscape impact of the permission holds less weight. The matter being contained to the previous conclusions on visual impact in the decision making process under a similar, but different policy umbrella of the previous Local Plan. It is noted the legal position of the historic permission is currently subject to an appeal following the Council's refusal. Should the appeal be upheld additional weight should be afforded the historic permission and any comparable landscape and visual impact.

2.20 In regard to Officer conclusions there is disagreement with the applicant's assertion that the proposed development would merge into the existing landform and tree cover and would be perceived as a subservient element within the enclosing combe. The Council's interim landscape advisor opinion differed on this statement by the applicant, noting principally that the scale and spread of the development is very urban in nature and will start to erode the character of the area and appears to be in direct conflict with the Undeveloped Coast Policy objections. The summary was that the magnitude of impact would appear to be under estimated. A similar assessment against the historic permission raised similar concerns, principally that the applicants assessment again exhibits an under estimation of impact. Note was offered on the

spread of development and that the visual impact would be greater than that previously considered.

2.21 In regard supplementary advice the Council's Senior Arboricultural and Landscape Officer was concerned that there is a tension within the proposals between providing views of the coast from within the site to new residents and visitors, whilst also screening the new buildings from views into the site from outside it. This issue was reaffirmed by the Council's Acting Senior Arboricultural and Landscape Officer but specifically in respect to the two blocks sat on a ridge to the south of the Village Core.

2.22 In regard to broader advice Jacobs provided specialist landscape advice on a broadly similar pre-application scheme in 2018. The summary points of this advice included some appreciation towards comparing with the historic permission, but raised that the height of proposed buildings had significantly increased and the building footprint has spread into areas where no development was previously proposed in the historic scheme. This ultimately led to the view that the proposal would not achieve a good fit with the existing landscape and would result in an undue adverse impact on the secluded character of the Maidencombe Area of Local Character within the Countryside Area and Undeveloped Coast, principally due to the increased scale and massing.

2.23 In regard to material considerations the impact upon the rural landscape is a concern raised within the representation submitted by the Council for the Protection of Rural England. The landscape impact and incompatibility with the rural surroundings is also a central issue within the many public representations received objecting to the application, including those submissions by the Torquay Neighbourhood Forum, Maidencombe Residents Association and Torbay Coastal Heritage Trust.

2.24 In regard to concluding on the landscape and visual impact it is considered that the scale and form of the development is one that is very urban in nature and very alien to the unspoilt rural character that is interspersed by sporadic and domestically scaled buildings. As such the proposal is considered at odds with a number of policies contained within the development plan which relate to design, landscape and character. Notably the Policies that the application is considered contrary to are SS1, SS8, SS10, DE1, DE4, C1, C2 and H1 of the Torbay Local Plan and Policies TH8 and TH12 of the Torquay Neighbourhood Plan.

2.25 In regard to the conclusions above a similar position is retained when considering the context of the historic permission made under the provisions of the previous Local Plan as a material consideration. The current proposal presents a demonstrable amount of additional development within areas of the site that are less screened by the topography and vegetation. Development that is introduced where none was previously proposed and development that is substantially higher than development previously proposed. This additional spread and scale of development appears at odds with the previous commentary, which historically appears to have partly acknowledged the supposition that containing the development within the bowl limited its resultant impact upon the area. As such when considering the material consideration of the historic permission and Council's decision the current proposal is still considered unacceptable in terms of its landscape impact, contrary to Policies SS1,

SS8, SS10, DE1, DE4, C1, C2 and H1 of the Torbay Local Plan and Policies TH8 and TH12 of the Torquay Neighbourhood Plan. This conclusion is retained should the current appeal in respect to the historic permission be upheld, principally due to the extent of divergence between the two schemes and additional impact resulting from the additional scale and differing location of development.

2.26 In regard to national guidance the proposal, in light of the conclusions above, is considered contrary to the NPPF aspiration of achieving good design. Paras 124, 127, 129 and 130 are particularly relevant and accumulatively inform that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, that good design is a key aspect of sustainable development, and the importance of design being sympathetic to local character (built environment and landscape setting). Para 130 offers that 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. Para 170 of the NPPF provides further guidance in that planning policies and decisions should contribute to and enhance the natural and local environment. This includes protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan); recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland; and maintaining the character of the undeveloped coast, while improving public access to it where appropriate.

3. Access, Movement and Highway Safety

3.1 Policy TA2 of the Torbay Local Plan states that all development should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. For major developments this means that a good standard of access for walking, cycling, public and private transport should be provided. In regard to specialist housing Local Plan Policy H6 requires new sheltered housing (C3 uses) to be within easy reach of community facilities, shops and public transport, new developments to be accessible to facilities and public transport, and requires new retirement villages to be accessible to facilities and public transport.

3.2 Policy TH5 of the Torquay Neighbourhood Plan states that New residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities.

Access

3.3 The main access is proposed off the Teignmouth Road in the general area of the existing access point (28m further south – i.e. towards Torquay). The initial location of the access point presented some concern with Council Highway Engineers in terms of the visibility splay. In response to these concerns the access point has been moved slightly further south in order to improve the visibility splays. The submitted Transport Statement explains that given the traffic impact identified that it is

considered that the visibility splay and access point are acceptable.

3.4 The development also proposes a temporary access onto Rock House Lane, which is proposed by the applicant as a measure to limit the impact of the construction phase on early phases of the development that may be occupied. Highway Officers have raised some concern that this route within the site has little clarity, limited passing opportunity, and that there is little information about the duration or level of use expected from this access. Council Highway Officers have presented that it could in effect be the main access point for the site during construction for an unknown period of the time and there is a concern that by introducing an access onto this narrow road, at this location, may bring a potential hazard to road users. It is noted that there has been no assessment of this or the Teignmouth Road (A379) / Rock House Lane junction.

3.5 In regard to pedestrians access is provided adjacent to the main entrance and connects to the bus stop. It is note that this footpath would require improvement and a crossing point would also be necessary to ensure safe access for all modes to and from the site. In regard to other matters of pedestrian access it is uncertain whether the temporary access will also be required to be used by pedestrians when it operates as a vehicular access. Should this be the case, as appears likely, a design for shared use would be necessary. In in addition it is noted that the proposal suggests some circular walking facilities around the periphery of the site. In this regard it is not clear whether the route adjacent to Rock House Lane connects to the public highway towards the top of the site, to provide access. This is likely to be the nearest access to a bus stop for some residents on the site.

Accessibility

3.6 The site is located outside the existing built up area of Torbay within a countryside area. Maidencombe is principally hamlet together with some sporadic ribbon development along the Teignmouth Road and lacks the basic amenities such as a store or post office. The site is hence not located close to day-to-day facilities such as a shop, post office, doctor's surgery etc. The nearest shop is located on Moor Lane within Watcombe, in a small parade, and for significant facilities the nearest option is St Marychurch District centre further south.

3.7 In terms of existing public transport options it is noted that there is an hourly bus service along the Teignmouth Road, however this only operates during the day.

3.8 The highway network itself does not have safe facilities for pedestrians with no footways and narrow road widths. Therefore, walking options to and from the site are considered to be limited. The above may result in higher car usage than would be expected from other locations. In regard to access to the aforementioned facilities options on foot, or by mobility scooters or bicycle, hence appear limited, hindered due to the hostile road environment between the site and Torquay, where the road is steep in places, does not feature footways, and is bordered by walls and solid banks to both sides with little opportunity for safe refuge. The road has a number of blind bends that heighten the danger to more vulnerable groups of road users.

3.9 The development proposal does seek to mitigate the issues raised above by

offering to provide a number of facilities onsite and access to a 'community minibus or village transport service' both of which could be utilised by residents of the development proposal, and potentially qualifying existing residents living within Maidencombe. However, this does not outweigh, and is perhaps reflective of, the unsustainable location of this site more generally and is not considered to be a satisfactory solution to the inherent issues.

3.10 Within the site the topography gives rise to some very challenging gradients. Although the applicant has presented a layout that seeks to maximise relatively level pedestrian links where possible between outlying blocks and the village core the gradients within the site are likely to hinder pedestrian movement, and choice of movement, around the development and further afield. The hindrance to movement is likely to be exacerbated by the very use being proposed where occupants may potentially be less mobile.

3.11 Policy TH5 of the Torquay Neighbourhood Plan states that development such as that proposed will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities, which has the effect of directing developments of this nature to the existing built up area of Torbay rather than peripheral sites within the countryside. The proposal is clearly in direct conflict with the aspirations of Policy TH5. It is also considered counter to criterion (ii) of Policy H6 of the Torbay Local Plan that covers similar aspirations towards sustainable locations.

3.12 As a final point the draft 'Plan for Housing in Later Life' identifies the level of local need and as supported by the recently adopted Housing Strategy Delivery Plan 2020-2025. The Council's Public Health Officer has reported that there are plans and actions to deliver against the assessed need in sustainable locations within the existing built up area of Torbay. This approach fits very clearly with the qualitative focus group and survey data carried out locally which indicates that people favour living in accommodation within the existing built up areas of Torbay, and the proposals location is clearly counter with wider work to deliver such uses within the community in accessible locations.

3.13 Considering the points above, and having regard to guidance contained within the NPPF, the proposal is considered to present a broadly unsustainable form of development in regard to its location, where poor access to facilities and an inherently inhospitable pedestrian, mobility scooter or cycling environment, is likely to drive a form of development that would lean heavily towards being over reliant on the private car, and would thus not demonstrably minimise the demand for travel, by reason of not offering genuinely sustainable transport choices. The development is hence contrary to policies contained within the development plan, principally Policy TH5 of the Torquay Neighbourhood Plan and Policies H6, SS1, DE1 and TA2 of the Torbay Local Plan, which outline aspirations towards sustainable locations for development.

3.14 In regard to the conclusions above a similar position is retained when considering the context of the historic permission made under the provisions of the previous Local Plan as a material consideration. It is considered that the current proposal presents a demonstrably different form of development, one which appears more car dependent and likely to present a higher degree of unsustainable movement

patterns generally. The historic permission comprised a 90 bed special care unit, 92 one and 2 bed care suite and 24 independent living units, although this was amended to reduce the special care unit from 90 to 30 beds and provides instead an increase in care suites from 92 to 117 units. It was noted that the majority of the care suites were one bed (from 45 one beds to 68 one beds) and were to provide a specialised Elderly Mentally Infirm (EMI) facility. The current proposal presents a more independent form of residential care and presents a much higher provision of parking facilities. The level of parking is considered to reaffirm the conclusion that the form of development will present a higher demand for parking and movement generally. This conclusion is retained should the current appeal in respect to the historic permission be upheld, principally due to the extent of divergence between the two schemes and the likely increase in unsustainable movement patterns of residents, visitors and staff resulting from the development.

3.15 An update will be provided on the Highway Authorities position in regard to the revised main access design and visibility, and ultimate safety of the junction.

4. Ecology & Biodiversity

4.1 In terms of the ecology the site is principally split between woodland habitat on higher ground to the north and west and pasture fields on lower ground to the south and east. The field system of hedge lined with occasional copses.

4.2 In regard to designations the majority of the site is identified as a Local Nature Reserve within the Torbay Local Plan. In addition to this the site also sits within the Landscape Connectivity Zone associated with the South Hams Special Area of Conservation (Greater Horseshoe Bats) and there is a roost present at the edge of the wooded alcove within a building.

4.3 The proposal is EIA development and as such is supported by an Environmental Statement (ES). Chapter 7 within the ES considers ecology and nature conservation. The chapter assesses the likely significant effects of the development on the environment in respect of ecology and nature conservation. The ecological assessment also seeks to provide appropriate information that Torbay Council may reasonably require to determine likely significant effects of the development on European-designated sites, in accordance with its duties under the Conservation of Habitats and Species Regulations 2017 (as amended). This links to the presence of GHBs associated with the South Hams Special Area of Conservation (Greater Horseshoe Bats) but also relates to the Lyme Bay and Torbay SCI (Marine).

4.4 It is noted that the impact upon ecology is a central thread through a substantial number of the public representations.

4.5 In regard to Greater Horseshoe Bats roosting and foraging impacts have been considered and the proposal is supported by proposals to mitigate, compensate and enhance. The key concepts being a lighting design to maintain suitable commuting routes around site, the implementation of grazing to enhance the foraging resource for GHBs, and the provision of additional roosting features within the site. The Council has considered the proposed mitigation measures and a specialist ecological advisor has undertaken a Habitat Regulations Assessment / Appropriate Assessment in order

to determine the likely significant effect, in accordance with Habitat Regulations. The conclusion of this assessment is that subject to achieving the identified mitigation there would be no adverse effect on the integrity of the South Hams SAC, alone or in combination. This conclusion is supported by Natural England as a consultee in the HRA/AA process. The HRA/AA also concluded that there would be adverse effect on the integrity of the Lyme Bay and Torbay SCI (Marine), alone or in combination.

4.6 In regard to wider ecological issues the Councils specialist advisor has considered the development proposals for habitat management and management of protected and notable species found within the site. There is broad agreement with the proposals to protect notable habitats and protected and notable species. This agreement covers measures associated with scrub, semi-improved grassland, semi-natural broadleaved woodland, notable plants, invertebrates, amphibians, Cirl buntings, bats, badgers and hedgehogs.

4.7 Notwithstanding the above within the initial assessment there was identified concern regarding insufficient habitat enhancement to accommodate what is detailed as an exceptional population of slow worms. At the time it was noted that 10 refugia (log piles) for reptiles would be insufficient. It was advised that a detailed mitigation and monitoring plan for reptiles should be submitted prior to the determination of the application. The addendum information submitted in February 2020 did not address this previous concern on the initial submission. Further ecology detail was received which responds to minor changes in the development and to update certain baseline survey data. Consideration as to whether this additional data has adequately responded to the previous concerns regarding reptiles is currently being considered by an ecology specialist and an update will be provided on the matter. The recommendations to members is subject to these outstanding comments.

4.8 In regard to the policy context Policy NC1 of the Torbay Local Plan and guidance within the NPPF seeks for development to duly consider biodiversity and take opportunities for enhancement, proportionate to the context and development. Policy SS8 (Natural environment) cites the Council will safeguard, conserve and enhance the valued qualities, features and attributes of sites protected under European legislation and other important natural landscape, including tranquillity, dark night skies, bathing waters, biodiversity and geodiversity within the Bay, commensurate with their importance. The policy furthers that sites, species and habitats protected under European, or equivalent, legislation will be protected from development. Development around the edge of the built-up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1. Particular attention must be paid to Greater Horseshoe Bat flight paths, and Cirl Buntings.

4.9 In regard to the Torquay Neighbourhood Plan Policy TE5 (Protected species habitats and biodiversity) cites that, considering all stages of the construction process, the development of new homes etc on an unallocated site that could have an impact on a protected species or habitat must provide, as appropriate, an assessment of impacts upon any existing protected species or habitats and as necessary provide mitigating arrangements in order to protect and enhance those species and habitats. In addition Policy TE6 (European Protected species on specified sites) cites, considering all stages of the construction process, all development within the

Maidencombe area (including Sladnor Park) must have a Habitats Regulations Assessment as appropriate and be compatible with ecological requirements set out in the Habitats Regulations.

4.10 As matters stand specialist advice has concluded positively on the matter of European Sites, subject to achieving the proposed mitigation. More widely ecological management and mitigation is supported but specialist advice previously raised concern on the proposed mitigation pertaining to reptiles. More recent information is currently being considered by the advisor. Should this consideration conclude positively on the one remaining ecological issue that is unresolved the application is supported on ecology grounds. Should this consideration conclude negatively on this outstanding matter that application is not supported on ecology grounds due to the absence of necessary information to conclude positively on a protected species. This matter cannot be dealt with by planning condition. A stated an update will be provided.

4.11 The above is concluded in accordance with Policies SS8 and NC1 of the Torbay Local Plan and Policies TE5 and TE6 of the Torquay Neighbourhood Plan, and advice contained within the NPPF.

5. Flood Risk and Drainage

5.1 Torbay is a Critical Drainage Area and Policies ER1 and ER2 of the Local Plan seek to minimise the downstream effects of surface water and foul drainage, particularly through the use of sustainable urban drainage (SuDS) measures which minimise surface water run-off going into shared sewers. The site falls outside of the Critical Drainage Area however where drainage solutions connect to a broader network within the designated area it is considered a relevant contextual matter. In regard to the Local Plan there is an identified area of heightened flood risk (surface water flooding) that commences on the lower slopes of the site and continues eastwards across Brim Hill and residential plots towards the centre of the hamlet and down to the coast.

5.2 The application is supported by a Flood Risk Assessment, as contained with the Environmental Statement, which seeks to demonstrate acceptable surface and foul water management regimes, which would not increase the risk of flooding to land or buildings on or adjacent to the site.

5.3 It is evident that there is some significant concern from local residents in regard to the additional risks of flooding to land and buildings to the east of the site, adjacent to the lowest part of the site around the area of Brim Hill. Both from the built form of the development itself but also from the related removal of trees which will also impact the prevailing system.

Surface Water

5.4 The surface water drainage strategy submitted with the application detailed a SUDs solution to surface water management with a series of soakaways on site to mitigate the risk of surface water flooding. The system will be designed to safely discharge runoff from the site for 100 year plus 40% climate change. In addition other infiltration methods are detailed, which note specifically that run off from the access

roads was to be conveyed to infiltration trenches, to run along the edge of the road. Infiltration trenches were also detailed as 'interceptor' land drains to provide additional measures and further betterment for the undeveloped part of the site to the east of the proposed buildings. These trenches are intended to alleviate surface run off from this part of the site, which is the steepest part of the site which drops towards Maidencombe.

5.5 The initial review of the proposed strategy and detailed design by the Council's drainage engineer raised issue with the general strategy of soakaways and the schemes ability to ensure that there would be no increased flood risk. It was specifically raised that as the site has a gradient in excess of 1 in 10 the use of infiltration drainage is a concern and needs to be considered very carefully, as there is a significant risk of water which has entered the infiltration drainage re-emerging further down the site. This would result in an increased risk of flooding on the site and to land and property adjacent to the site, particularly in the area of the site identified as Flood Zone 3.

5.6 Following these comments the applicant submitted further detail and further iterations of the SUDs scheme in order to try and overcome the ongoing concern on the use of soakaways as a satisfactory solution, one which would ensure against increased flood risk to land and buildings to the east. These iterations of the SUDS scheme continued up until the August 2020. Notwithstanding the extensive discussions between the applicant's drainage specialist and the Council's drainage engineer agreement was not reached and an objection on grounds of flood risk was maintained on the SUDs strategy.

5.7 The applicant has now recently submitted a revised strategy, an alternative proposal based on a pumped connection to the public sewer located on the Teignmouth Road to the north. The scheme involves surface water holding tanks and a pumping station, which would feed a surface water drain up through the site under the access road to the public sewer.

5.8 The revised strategy is designed to collect and convey flows from the impermeable areas of the development and is designed to accommodate the flows from a 1 in 100 year event with a 40% allowance for climate change, in-line with policy guidance. It is noted that flows from the pumping station are to be restricted to 3l/s to minimise the impact on the public sewerage system, as required by South West Water. The proposal would include standby pumps and will incorporate emergency storage to account for a power failure to the pumping station. The system would remain in private ownership and maintained by a management company. The system would also incorporate measures to divert overflows to the east of the site in the case of system failure or where flows exceeded capacity. Other measures are included downstream of the development to try and address the existing flood concerns of neighbouring properties. These measures include filter trenches to obstruct and spread water flow following any system failure or exceedance of capacity.

5.9 In regard to the current advice the Council's drainage engineer retains an objection, based principally on issues pertaining to drainage speeds, capacity issues and continued maintenance.

5.10 In regard to the objection concern was raised as the half drain down time for the storage does exceed 24 hours. This requirement for 24 hour drain down time is in order to manage follow on storm events. If the wider recommendations contained within the submitted guidance from the developer is accepted in order to providing adequate storage for the follow on 1 in 10 year storm event plus 40% climate change, the system would require an additional 388m³ of storage.

5.11 In regard to maintenance there is concern that the surface water system as proposed is not sustainable, due to the excessive pump running times which will result in excessive energy usage. There is also concern that there will be excessive wear and tear on the pumps leading to increased maintenance requirements. In this regard it is detailed that the developer has not identified procedures for dealing with pump failures or power failures in order to reduce the risk of flooding during these events. These should be included within the maintenance plan.

5.12 In addition to the above concerns it has not been demonstrated that the inlets to the underground system have been designed to receive the flows from the critical 1 in 100 year storm event plus climate change.

5.13 South West Water has no objection but as noted they have stipulated a restricted connection. They have clarified that both the public mains water distribution and foul sewer networks have been reviewed prior to the application being submitted and capacity confirmed to be available.

5.14 Considering the above the current advice is that the applicant has not demonstrated that the development would not increase the risk of flooding from surface water.

Foul Water

5.15 A new foul water drainage network is proposed to service the proposed development. The new network will collect and convey foul water discharge from the development to a connection point on the existing public sewer. The proposed drainage strategy plan indicates the foul water system will follow the route of the temporary access to the south of the site onto Rock House Lane, and then northwards to Teignmouth Road where it will connect to the south of the existing junction.

5.16 The existing site is not currently positively discharged, consequently, the proposed development will create an increase in flows to the public sewer system. South West Water have confirmed that the existing public combined sewer network located to the south west of the site has sufficient capacity to accommodate the proposed development.

5.17 The foul water proposals appear adequately resolved for the reasons stated above.

Conclusions on drainage and flood risk matters

5.18 National guidance contained within the NPPF cites that when determining any planning applications, local planning authorities should ensure that flood risk is not

increased elsewhere (Para 163). It also guides that Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate (Para 165).

5.19 Policies ER1 and ER2 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, which is aligned with guidance contained within the NPPF. In addition Policy SS7 of the Local Plan cites that in order to be permitted development must be supported by critical infrastructure, which includes reference to drainage, and further where it does not provide critical infrastructure it will not be permitted.

5.20 Based on the above the surface water drainage proposals do not adequately ensure that there would be no increased risk of flooding on land or buildings adjacent, and as such the proposal is contrary to Policies SS7, ER1 and ER2 of the Torbay Local Plan, and advice contained within the NPPF.

6. Impact on Heritage Assets

Designated and non-designated heritage assets

6.1 With regard to designated heritage assets the site has a close relationship with Maidencombe Conservation Area, which is located to the north and east. The Conservation Area includes listed buildings and as such it is important to consider the impact upon their settings as well as the setting of the conservation area, albeit that the Conservation Area boundary does somewhat provide an inference of the immediately sensitive setting of these listed buildings.

6.2 The Conservation Area appraisal makes specific mention of the value of the landscape. It points that the protection of the historic landscape has been much aided by most of the coastal farmland and woodland in the area being managed by the Torbay Coast and Countryside Trust, who with conservation partnerships ensures sympathetic management, safeguarding the historic pattern of small fields, thick hedgerows, and permanent pasture, which extends the conservation of the area beyond the built environment into the historic natural environment.

6.3 The Conservation Area appraisal follows that the buildings within the conservation area are, for the most part, incidental to the landscape with the only real focus of development being close to the centre of the hamlet north of the Thatched Tavern. It also notes that the character of much of the conservation area hinges upon its ability to retain the strong sense of geographical isolation and historic continuity in a setting of great natural beauty.

6.4 When considering the emphasis on the isolated, rural character of the area, it is a concern that the proposed development will introduce large scale buildings which will be alien to the character of the locality and the setting of the Conservation Area and its associated listed buildings. The level of harm is tempered somewhat when considering that views from within the Conservation Area (and listed buildings) to the site are to a degree limited. However, in terms of the degree of harm it is still considered that the development will still cause some harm, of a scale which could

reasonably fall within the less than substantial category. The NPPF 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.

6.5 In regard to informing a broad judgment on heritage impacts a judgment on the level of harm to other non-designated assets is relevant.

6.6 There is a considered benefit to restoring the folly as a non-designated heritage asset. This is not however considered to outweigh the harm to designated heritage assets that are cited above.

6.7 In addition it is relevant to consider the harm in terms of removing the (majority of) lodges, where it is noted that the Twentieth Century Society have highlighted the importance of these. Whilst the lodges were not deemed to be worthy of listing by Historic England the Society's consultation response details the value of the buildings and hence it is fitting to recognise the lodges as being heritage assets, albeit undesignated. In this respect the removal of all of the lodges (within the application site) is considered to inevitably represent material harm to these assets.

6.8 As point of note Historic England cited that, as the nature of the assets possibly affected is the setting of grade II listed buildings, the setting of the conservation area and the lodges identified by the 20th Century Society as non-designated heritage assets, they do not wish to comment, deferring to the expectation that the impact of these should be advised upon by the council's conservation advisor.

Archaeology

6.9 The proposal is sited in an area of archaeological potential, where the previous mansion was built in the 1770s and where the parkland also contains the earthworks of a medieval field system.

6.10 As such, groundworks for the construction of the proposed development have the potential to expose and destroy archaeological and artefactual deposits associated with medieval and post-medieval settlement and agriculture. The impact of development upon the archaeological resource here should be mitigated by a programme of archaeological work that should investigate, record and analyse the archaeological evidence that will otherwise be destroyed by the proposed development, should planning permission be granted.

6.11 The Council has consulted the Devon County Archaeologist and it is recommended that the application should be supported by the submission of a Written Scheme of Investigation (WSI) setting out a programme of archaeological work to be undertaken in mitigation for the loss of heritage assets with archaeological interest. The WSI should be based on national standards and guidance and be approved by the Local Authority. If a Written Scheme of Investigation is not submitted prior to determination the any consent should carry the condition to achieve one, for the above reasons and in accordance with the National Planning Policy Framework guidance and Policy SS10 in the Torbay Local Plan 2012 – 2030.

Heritage conclusions

6.12 In terms of the local development plan it is guided that development proposals should have special regard to the desirability of preserving any listed building and its setting (Policy HE1 of the TLP). This is aligned with the duties for decisions as laid out within the Planning (Listed Buildings and Conservation Areas) Act 1990. Similarly Policy SS10 covers various aspirations for development to conserve and enhance buildings etc, and other natural features which make an important contribution to Torbay's built and natural setting and heritage.

6.13 The NPPF guides that when considering the impact of a proposed development on the significance of a designated heritage asset, that great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance (Para 193). 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 194). 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 196).

6.14 In terms of overall heritage impacts it is concluded that there is some degree of harm in terms of the developments impact up on the rural setting that is intrinsically linked to the listed buildings and Conservation Area's settings, partly informed by various glimpsed views and partly informed by the kinetic experience of these heritage assets as you pass through the area. This harm is however, when taken with the loss of the lodges and potential improvements to the folly, considered as less than substantial and therefore weighed as part of the overall planning assessment as required by the NPPF.

6.15 In reaching this conclusion Officers have duly considered the general duties in respect to listed buildings and conservation areas under the Planning (Listed Buildings and Conservation Areas) Act 1990.

7. Residential Amenity

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

7.2 The construction phase will naturally have some temporary impacts however such impacts are not unusual and the degree of impact can be limited through restricting hours of construction and agreeing processes to limit delivery and construction movement and parking impacts through the use of a planning condition. It is noted that the Council's Community Safety Officer does not object to the proposals but requests a Construction Method Statement to guide suitable practices to limit impacts on adjacent occupiers/residents. This is considered a key matter considering the tranquil nature of the area, which is experienced by tourists as well, within acombe that may potentially amplify the effects of noise and general disturbance.

7.3 In terms of the finished development the residential use aligns with the residential uses nearby and the additional dwellings would not result in undue noise or general disturbance in the area. It is however noted that the scale of development is such that there could be some degree of harm to the rural tranquillity that the area presently benefits from.

7.4 In terms of scale and location there is unlikely to be any loss of outlook or light due to the distance to the edge of the site and adjacent properties and plots. It is noted that there may be some degree of impact upon the retained lodges that sit outside the extent of the development, whose occupiers may experience a degree of built confinement that does not presently exist. This would in the main be due to the much more dominant scale of the proposed development.

7.5 In terms of privacy, inter-visibility and overlooking, again when considering the distances involved, there would be no impact upon adjacent occupiers and plots. Again there may be some degree of impact on the retained lodges that sit outside the extent of the development, due to sheer extent of development and the relatively close proximity.

7.6 In regard to the quality of the residential environment the development largely proposes 2-bed apartments of varying designs across the village core and outlying buildings. There are seven 1-bed apartments within the 159 apartments. As a guide national residential space that are engrained within Policy DE3 of the Torbay Local Plan outline that 1-bed (2-person) apartments should be no less than 50sqm and 2-bed (3-person) apartments should be no less than 61sqm. These are standard housing size standards and it is noted that design guidance for care apartments suggests a slight increase in these size standards.

7.7 The 1-person apartments are generally around 60sqm. The 2-bed apartments range from a lower range of around 100sqm to an upper range of around 140sqm, although there are penthouse units that are 160sqm. These internal unit sizes are very generous and combined with the outlooks and natural lighting would afford occupiers a very good standard of living accommodation.

7.8 In regard to broader residential environment parking facilities are generally handily located within the undercroft of each building, including the village core. The development proposes 168 parking spaces, 95 of which will be assigned to the residential units. The provision far exceeds that required by the local plan for sheltered housing (1 in 5) or care homes (1 in 8), which is possibly partly informed by the isolated location and partly informed by the value of the residential units and private expectations towards having assigned parking facilities.

7.9 In regard to access to the facilities within the development and general movement around the site the steep topography presents a somewhat challenging environment for occupiers of a care facility, who may naturally be less mobile. The layout does seek to try and connect areas however the topography of the site is such that it will inherently present some very steep gradients that will be challenging to future occupiers. This may encumber the ability or confidence of occupiers to move around the site, which is possibly heightened in times of wet or winter periods where the slopes are likely to present more of a challenge. Considering the steepness of the

gradients there is some concern as to whether the site is naturally aligns itself with the use proposed.

7.10 In summary the proposal appears to demonstrate the potential to provide a largely satisfactory form of development in terms of protecting the amenities of adjacent occupiers and providing a good level of amenity for future occupiers of the development. There is however some concern on the impact on pedestrian or aided movement due to the steepness of gradients, and there is likely to be some degree of impact upon the occupiers of the retained lodges in terms of inter-visibility and casual overlooking. On the information available the development largely accords with Policies DE1 and DE3 of the Torbay Local Plan in terms of the internal environment, but accords less-so in terms of the layout and outside environment for an age-restricted care use and the environment sought for specialist housing s outlined in Policies H6 and TH5 of the Torbay Local Plan and Torquay Neighbourhood Plan respectively.

8. Low Carbon Development

8.1 Policy SS14 of the Local Plan relates to 'Low carbon development and adaptation to climate change' and seeks major development to minimise carbon emissions and the use of natural resources. Policy ES1 (Energy) is aligned with Policy SS14 and expects all major development proposals to make it clear how low-carbon design is to be achieved. The policy seeks to ensure that carbon emissions associated with energy use of buildings are limited.

8.2 The Torquay Neighbourhood Plan includes commentary within its text regarding low carbon development however there is no direct policy. It is however noted that Policy TTR2 (Sustainable Communities) seeks to encourage reduction in the need to travel, with support will be given wherever possible to development proposals that minimise the distance between homes and places of work, education, recreation and shopping. This offers some policy advice in terms of the movement patterns from development and its link to carbon production.

8.3 A Sustainability Statement has been submitted to set out an approach in terms of how an environmentally friendly, energy efficient, inclusive and subsequently sustainable new development is proposed. The strategy principally outlines that carbon emissions savings will be achieved primarily through fabric first efficient measures, the fabric first approach reduces the risk of failure with 'bolt on' technologies that may fail.

8.4 The development will offer opportunities for shared travel through a comprehensive transport service to be secured via a travel plan.

8.5 Carbon emissions savings will be achieved primarily through fabric first efficient measures. Although specific use of renewable / low carbon technologies within the scheme would be considered at the detailed design stage (to be secured by Planning Condition), the fabric first approach reduces the risk of failure with 'bolt on' technologies that may fail. The fabric first approach is suggested to be in line with BREEAM very good.

8.6 Other measures include locally sourced building materials & component parts to be encouraged where possible. A Site Waste Management Plan prepared to reduce the quantity of waste. To meet &/or improve upon Building Regulation Thermal Standards for the Assisted Living Units & Woodland Edge Close Care Apartments by reducing energy usage. To endeavour to achieve a BREEAM status of Very Good, for the Village Core Building & Facilities only. To consider Solar Panels on the roofs of the proposed Woodland Edge Apartments, to contribute towards the electrical use of the shared Village Facilities & Communal Area. Promote use of bicycles. Promotion of a fleet minibus / taxi services to the neighbouring village, conurbations & wider transport links. Promote the use of allocated electric fleet cars where feasible. Integrated Heat Recovery Ventilation Systems will be incorporated into the proposals as detailed design progresses. Centralised Plant for Ventilation and Heat Management will be proposed for the Village Core Accommodation & Communal / Staff Area Facilities.

8.7 The matters detailed above are not insignificant and present a number of potential ways to aid with the aspiration to deliver low carbon development. It would be necessary that such aspirations are explored and evolved in more detail and engrained within any future development through appropriately worded planning conditions if the application is supported by Members.

8.8 The identified matters above are broadly aligned with the physical form of the development. It is also important to consider broader matters of location and likely travel choices. As concluded within Section 3 of the officer assessment the site is considered to be isolated and poorly located to community facilities and services, and is likely to present a car-driven development that does not truly offer other more sustainable forms of transport. In this regard it is reasonable to conclude that it would be unfeasible to secure a truly low carbon form due to its location.

9. Housing Supply

9.1 The Council cannot currently demonstrate a 5 year housing land supply, as sought by Government, and the proposal will help with the delivery of housing. As stated within this report the site is not allocated for housing and the proposals are there is demonstrable conflict with the development plan. The provision of housing is a significant benefit within the planning balance, certainly in light of the current published position where the Authority can only demonstrate a 3 year supply, which is a significant shortfall.

9.2 The NPPF indicates that the shortfall in five year supply means that applications for housing should be considered on the basis of the presumption in favour of sustainable development i.e. a “tilted balance” applied in favour of granting planning permission, as outlined in Para 11 of the NPPF. This is provided that any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the NPPF when taken as a whole.

9.3 However, at the time of drafting this report the Authority can demonstrate a 3 year supply and as such para 14 of the NPPF applies. Para 14 provides that proposals which conflict with relevant housing policies within a recent neighbourhood plan are likely to significantly and demonstrably outweigh the benefits of the proposal. As

explained in para 1.11.-1.16 above, the proposal conflicts with policies TH1, TH5, TH12, TS1 and TS4 of the Torquay Neighbourhood Plan, a plan which was made less than 2 years ago, and contains policies and allocations to meet its identified housing requirement. As a result the 'tilted balance' in favour of granting permission does not apply

10. Care and Health Provision

10.1 Policy SC1 (Healthy Bay) indicates that development should contribute to improving the health and well-being of the community. Local Plan Policy SS11 (Sustainable Communities) is also relevant, as is Local Plan Policy H6 (Housing for people in need of care). Policy H6 states that retirement villages (and housing other forms of housing and care accommodation within C3 and C2 use classes) will only be approved where certain conditions are met. The policy states that new care homes will only be approved where (i) 'clear evidence of need is provided', (ii) 'they are accessible to facilities and public transport', (iii) they will not harm the creation of mixed/balanced communities, (iv) 'they will not add undue pressure on local healthcare or social services', and (v) will improve the quality of care where an existing facility. Criteria (i) (ii) and (iv) are most relevant and will be covered below.

10.2 Neighbourhood Plan Policy TH5 (Sustainable later life homes) is also relevant, which cites that new residential units designed for retirement or accommodation for assisted living will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities. This is in direct alignment of criteria (ii) of Policy H6 of the Torbay Local Plan.

10.3 The application is supported by a Health Impact Assessment and the health impact is also contained within the Environmental Statement. The reports includes and assessment of need in the context of older people's housing and care accommodation within Torbay.

10.4 There is notable concern raised in public representations regarding the impact the development would have on doctors' surgeries etc. and how this would be exacerbated by the development that is likely to service inward migration due to the disparity between the affordability of the development for locals when comparing the expected purchase values of the apartments with the average cost of housing in the area.

Matters of need

10.5 In regard to assessing need the Council's Public Health Officer has reported that the submitted (Caterwood) 'needs' report holds some major weaknesses. Concern relates to the fact that the report contains a needs prevalence rates that is over of over 5 times that used as a basis for the evidence underpinning Torbay's relevant (draft) Plan for Housing in Later Life. Concern is also raised on the basis that the prevalence rates quoted in the applicants report are generic and indicative, in that they would apply to any local authority area and are limited in terms of inference which should be taken.

10.6 Considering the above the Council's Public Health Officer has hence reported that the submitted report presents an overestimation of need, although it is accepted that the development would contribute substantially towards delivering against the need. It is therefore advised that the perceived benefit of the care provision should be balanced, insomuch that the scale of need is not so great as to suggest that the application alone itself is crucial in terms of presently a compelling case to meeting that unmet need between now and 2035. The Council Officer reports, for instance, that the emerging evidence suggests a net need for housing with care of 276 units across Torbay through to 2035. Broken down this is suggested to indicate 133 units in Torquay (9 units per year), 77 in Paignton (about 5 per year) and 67 in Brixham (about 4 per year). These figures are significant less than those figures put forward in the applicants report.

Accessible to facilities and transport

10.7 Local Plan Policy H6 requires new developments to be accessible to facilities and public transport.

10.8 In this instance, the new development proposed is located outside the existing built up area of Torbay within a countryside area. Maidencombe is principally a hamlet together with some sporadic ribbon development along the Teignmouth Road and lacks the basic amenities such as a store or post office. The site is hence not located close to day-to-day facilities such as a shop, post office, doctor's surgery etc. The nearest shop is located on Moor Lane within Watcombe, in a small parade, and for significant facilities the nearest option is St Marychurch District.

10.9 As concluded in Section 3 of this officer assessment there is concern that the existing bus service past the site is limited and the routes available for travel on foot, or by mobility scooters or bicycle, appear quite unsatisfactory and hostile in terms of the road environment between the site and Torquay, where the road is steep in places, does not feature footways, and is bordered by walls and solid banks to both sides with little opportunity for safe refuge.

10.10 It is recognised that the development proposal does seek to mitigate the issues raised above, however this does not outweigh and is perhaps reflective of the unsustainable location of this site in this regard.

10.11 As concluded in Section 3 of this officer assessment the proposal results in an unsatisfactory access for future residents to the wider community facilities, which is counter policy guidance to deliver against the assessed need in sustainable locations within the existing built up area of Torbay.

Impact on local healthcare or social services

10.12 A key issue for local health and care partners is to understand the extent to which the proposal will attract people residing within the local area compared to those attracted living externally to the area. This is one important component of understanding net impacts of a scheme on local healthcare services. There is

substantial concern in representations that the proposal will increase the burden on healthcare by directly servicing inward migration due to issues of affordability to locals.

10.13 It has been stated by the applicant that it is anticipated that the vast majority of persons within the development will be sourced from within 10 miles of the site and that this is comparable to other schemes operated by the applicant. It is however the view of health partners in Torbay that the accommodation on offer is tailored towards individuals who have very much above an average level of wealth, to enable them to afford to be able to live on the development. It is reported, based on experience of the local care market and older people within Torbay, that a much higher proportion of accommodation would be utilised by persons living outside Torbay.

10.14 In order to provide some comfort on the matter of inward migration the applicant has stated that they would be open to the prospect of a local restriction being added as a condition to occupancy of units. This concept is supported should the scheme be supported.

10.15 Notwithstanding the above the Council's Planning Contributions and Affordable Housing SPD sets out a S106 contribution rate to partially mitigate the impact of such facilities, which in the case of extra care amounts to £1,300 per unit (where they do not have a local restriction). Such an obligation, if applied to every unit at Sladnor Park, would necessitate a contribution of circa £200,000, however there is some concern that the SPD levels do not counter the true cost of inward migration on the health service.

10.16 As a linked matter local care system partners have explored whether the proposed development could act as an opportunity for hub and bespoke facilities to be developed/utilised by health and care partners in the NHS, GPs, etc. This is an offer promoted by the applicant as a potential benefit of the scheme. However the conclusion of these discussions is that there are no partners in the system that have a desire to seek to utilise such facilities on-site (e.g. GP practice rooms, etc.). It is felt a key reason for this is the relatively isolated location of the site, which links back to the previous issues cited.

10.17 As a summary of matters relating to health and care provision the provision of care would present a benefit in terms of unit supply, however the need is not as great as the applicant reports and with significant concerns in terms of the developments poor location for such a facility, it sits counter to Policies H6 and TH5 of the development plan.

11. Economic Impacts

Construction phase

11.1 Reported economic benefits include the provision of temporary jobs during the construction phase at the site, which is estimated to be around three years. Construction costs are estimated at approximately £30million over the build programme. It is suggested that up to 187 temporary jobs could be supported per annum during the three-year build phase for the development.

11.2 It is also reported that construction has knock-on effects for other sectors which leads to increased demand for building materials and equipment at the construction phase, as well as furniture, carpets etc. following completion. The applicant reports that data published by the Office for National Statistics show that at a UK level, the employment multiplier for construction is 2.006 – i.e. for every 1 job created in construction, a further 1.006 jobs are supported in the wider economy. It is hence suggested that using a similar multiplier for this development this suggests that around 94 temporary jobs could be supported in the wider supply chain during construction.

Operational phase

11.3 The proposed development is expected to support an estimated 50 gross full-time equivalent (FTE) jobs on-site. The jobs are expected to be in a variety of roles, including: managers; carers; chefs; and housekeepers. It is estimated that once other factors are taken into account that the proposed development will more accurately support around 37 net additional FTE jobs in the Torbay economy once it is built and fully operational.

11.4 The Local Plan proposes to bring forward both homes and jobs, with an emphasis on early delivery of jobs (Policies SS1, SS4, SS5 and H1.3). Policies SS1 (text on Strategic Delivery Areas), and SS2 (ii) both indicate that major developments should deliver employment opportunities.

11.5 On this basis, the proposal makes a significant positive contribution towards jointly providing jobs and homes in accordance with the Local Plan, and is a significant benefit in favour of the proposal.

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

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

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

The development includes a number of related facilities which engrained with the apartments present a care village. These facilities are proposed to create 50 FTE gross jobs, which is suggested to present a net gain of 37 FTE when other factors are taken into account. The creation of employment is an economic benefit.

There are no adverse economic impacts that would arise from this development. In respect of the economic element of sustainable development the balance is considered to be in favour of the development.

The Social Role

The principle social benefit of the proposed development would be the provision of additional housing care and health.

Given the NPPF priority to significantly boost the supply of housing the additional dwellings to be provided must carry significant weight in this balance. As a care facility this specialist form of housing will provide a specific benefit for the relevant element of society. The potential wider provision of health facilities is not supported by NHS partners and hence the potential wider community benefit of health facilities is muted.

The proposal does suggest that the facilities will be available for public use and hence could present a broader benefit for existing residents in the area.

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

The Environmental role

With respect to the environmental role of sustainable development, the elements that are considered to be especially relevant to the proposed development are impacts on the landscape, ecology, surface and foul water drainage, and movement patterns. These matters have been considered in detail in this report.

There are demonstrable landscape impacts that weigh against the proposal, and at present there are concerns on an additional risk of flooding as the surface water drainage strategy is considered unsatisfactory. In addition due to the isolated location of the site there is clear concern that the development is likely to be over reliant on the private car, would not demonstrably minimise the demand for travel, and would not offer genuinely sustainable transport choices. This also weighs against the proposal. On a more neutral level the ecology impacts are largely mitigated, subject to detail on reptile mitigation.

Although not contained to these matters the proposal is considered to present considerable impact upon the landscape and would present development in an unsustainable location, inasmuch that it sits in the open countryside outside of the established settlements, with poor connectivity that would promote a car-driven form of development for both occupiers, visitors and people employed within the site.

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

Sustainability Conclusion

Having regard to the above assessment the proposed development is considered to represent unsustainable development due to the level of conflict with environmental role of sustainable development.

Local Finance Considerations

S106:

The following are draft Heads of Terms for a legal agreement, which should be completed prior to a planning consent being issued. Triggers and instalments in relation to the proposed financial contributions are to be agreed as part of any detailed negotiation of the legal agreement. Should Members resolve to approve the scheme it is recommended that authority to progress and complete the legal agreement be delegated to officers.

Affordable Housing

Affordable housing provision should be secured from this development in accordance with Policy H2 of the Torbay Local Plan, which states that for development of this scale brownfield sites should deliver 20% affordable units and greenfield sites should deliver 30%.

When considering the NPPF definition for previously developed land the site is considered substantially greenfield.

Based on an estimate that around 80% of the development as Greenfield and 20% as Brownfield (subject to change) on a scheme of 159 units the provision of affordable housing would be 44 units to be policy compliant.

Provision of the affordable housing will be sought on the basis of 1/3 Social Rent, 1/3 Affordable Rent and 1/3 Shared Ownership. The bedroom mix should be proportionate to the site as a whole with a pepper potted approach to the layout and as per section H6 of the Local Plan for a scheme providing 44 affordable units that the provision should also include 2 wheelchair adapted units.

It is noted that the applicant maintains the assertion that the development is a care facility C2 and does not contain dwellinghouses, and is hence not liable for affordable housing.

Greenspace and Recreation

No obligation request raised by Natural Environment Services. It is noted that the indicative masterplan includes open space. The provision of Equipped Play Areas is not considered commensurate considering the use proposed.

Education

No obligations due to age restricted care use being proposed.

Lifelong Learning Obligations

If granted obligations in-line with the adopted SPD should be sought to secure library improvements within the area, based on the provision of open market housing.

Waste and Recycling

If granted, in the event that waste and recycling is collected obligations in-line with the SPD should be secured to provide waste and recycling facilities for properties that will be served by the Local Authority waste collection provider.

Open Space and Drainage System

If granted details pertaining to the ongoing management of the proposed open space and drainage system, by a management company, shall be secured in order to secure certainty on future maintenance and effectiveness of the areas and system.

CIL:

The CIL liability for this development is Nil.

EIA/HRA

EIA:

The development, due to the scale, nature and location is considered to be EIA development and is supported by an Environmental Statement.

HRA:

The application site is within a landscape connectivity zone associated with the South Hams SAC.

A Habitat Regulations Assessment / Appropriate Assessment has been carried out for this development. The proposed development is unlikely to have a significant effect on the South Hams SAC. Natural England have been consulted and concur with the Council's conclusions, subject to securing the proposed mitigation measures.

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to try and resolve all relevant planning concerns. The Council has concluded that this application is not acceptable for planning approval due to unresolvable concerns.

Planning Balance

As detailed within this report the application provides certain benefits but also raises a number of concerns. The application has also generated a significant level of public objection.

The provision of housing is a significant benefit. The Council cannot currently demonstrate a five year housing supply (latest advice is 3 years) and the proposal could provide a boost to housing supply in the area. The NPPF indicates that the shortfall in five year supply means that applications for housing should be considered on the basis of the presumption in favour of sustainable development i.e. a “tilted balance” applied in favour of granting planning permission, as outlined in Para 11 of the NPPF. This is provided that any adverse impacts of doing so would not significantly and demonstrably outweigh the benefits, when assessed against the NPPF when taken as a whole.

The provision of affordable housing would be an added benefit to the broader benefit of housing supply, however the applicant maintains that the development is a C2 Use (Residential Institution) as a care village, rather than a form of development that strictly provides dwellings, and hence asserts that affordable housing policies do not apply.

The proposed development will provide employment during the construction phase and throughout the operational phase, where the resultant development includes a number of supportive services aligned with the care village concept. This is a material benefit of the proposal and weighs in favour of it.

Another benefit of the development is the provision of care, health and associated services, which are proposed to be accessible to local residents of the area. The provision of these services is a material benefit of the proposal and weighs in favour of the development.

There are however matters that weigh against the development.

Firstly the proposal is considered in clear conflict with the development plan. Notably it sits in conflict with Policies SS2 and C1 in terms of the site being outside of the established built up area and within open countryside, and is hence a departure from the Torbay Local Plan. There is also clear and significant conflict with the Torquay Neighbourhood Plan’s specific policy for the Maidencombe Area, Policy TH12, which does not support major development in the countryside zone where it is outside of the village envelope. With the Neighbourhood Plan less than 2 years old this conflict holds significant weight against the proposal.

There is also a significant harm to the landscape character of the area, which weighs against the proposal. The site is in a highly sensitive rural landscape character area and the form development is considered to presents significant harm in this regard. There is hence a demonstrable level of conflict with a range of Torbay Local Plan and Torquay Neighbourhood Plan polices in respect to matters of design and landscape and visual impact.

The proposed development is located outside of the settlement boundary in an isolated location in the open countryside with poor access to community services and

facilities. The development is therefore likely to be over reliant on the private car, would not demonstrably minimise the demand for travel, and would not offer genuinely sustainable transport choices. It hence presents an unsustainable form of development that presents a clear and demonstrable level of conflict with a range of Local Plan and Neighbourhood Plan policies, and counter to the guiding principles of sustainable development outlined within the NPPF. This presents considerable weight against the development.

With the form of development being considered unsustainable this also diminishes the material benefits of housing supply and the provision of employment, health and other services, due to the unsuitability of the location. As detailed within this report the Council's Health Officer has cited that although the development could contribute substantially towards delivering against the areas care need, the scale of need is not so great as to suggest that the application alone itself would be crucial, and furthers that the areas required provision of care would be better served within more sustainable locations.

The proposed development does not safeguard against an increased risk of flooding to land or buildings adjacent. This also weighs against the proposal.

With all matters considered the proposal does not constitute sustainable development because of the negative effects identified in this report, which are considered to substantially and demonstrably outweigh the benefits. This conclusion takes into account the 'tilted balance' as outlined within Para 11 of the NPPF.

This conclusion also considers the guidance within Paras 12 and 14 of the NPPF which affirms that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted, and that in situations where the presumption in favour applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits.

It is concluded that the proposal is not in accordance with the development plan as a whole and that there are no material considerations which would indicate that a decision should be taken other than in accordance with the development plan.

Conclusions and Reasons for Decision

Planning law requires the application to be determined in accordance with the development plan unless material considerations indicate otherwise. The application is, for the reasons summarised above and detailed within this report, therefore recommended for refusal.

Due weight is given the development plan and it is noted that the policy of Localism was promoted by the Government as being more than tokenism. It was described by the former Secretary of State (Eric Pickles) as being "Red in Tooth and Claw, about passing real power to local communities". In addition speaking at Collaton St Mary in December 2019, Robert Jenrick, Secretary of State for Housing, Communities and Local Government reaffirmed the government's commitment to Localism. Mr Jenrick

stated that: "...I want to see (Torquay's) Neighbourhood Plans properly respected by the local authority, homes built on the sites that were allocated as part of the process and that local people's views are listened to.... (We want to) build more homes but...ones that work for the local community and respect their wishes as outlined in the neighbourhood plan that was voted on in May in a referendum and should be the document that a local council really listens to".

The provision of housing, jobs and care and health facilities are all supported in principle, but the degree of conflict with the Neighbourhood Plan is significant and demonstrable, as is the considered harm to the landscape and character of the area, the harm from creating an unsustainable form of development in an isolated and poorly accessible location, and the concern on flood risk. The Neighbourhood Plan did not allocate the site for housing and policies contained within the Neighbourhood Plan clearly do not support the development that is being proposed.

Officer Recommendation

Refusal.

Reasons for Refusal

Landscape and Visual impact

The proposed development is located in the open countryside and undeveloped coast and the site forms part of a largely unspoilt rural character area that is identified as being 'Highly Sensitive' within the Torquay Landscape Character Assessment (2010). It is considered that the development, by virtue of its scale, form and location, would present an incongruous form and alien scale of development in the area that would result in significant harm to the landscape character, contrary to Policies SS8, SS10, SS11, C1, C2, DE1, DE4 and H1 Torquay Local Plan and Policies TS4, TH8 and TH12 of the Torquay Neighbourhood Plan.

Access and Sustainability

The proposed development is located outside of the settlement boundary in an isolated location in the open countryside with poor access to community services and facilities. The proposed provisions within the development do not adequately counter the isolated location. The development is therefore likely to be over reliant on the private car, would not demonstrably minimise the demand for travel, and would not offer genuinely sustainable transport choices. As such it is considered that the development presents significant harm which gives rise to a clear and demonstrable level of conflict with a range of Local Plan and Neighbourhood Plan policies, notably Policies SS8, SS10, SS11, C1, C2, DE1, DE4, H6 and H1 of the Torquay Local Plan, and Policies TS4, Th5, TH8 and TH12 of the Torquay Neighbourhood Plan.

Drainage and flood risk

The proposed development, due to the lack of necessary storage capacity, certainty on ongoing management and effectiveness of secondary dispersal measures, within the proposed surface water drainage system, does not ensure that the risk of flooding to land or buildings adjacent would not be increased, contrary to Policies ER1, ER2 and SS7 of the Torquay Local Plan.

Lack of secured affordable housing and obligations

The proposal, in the absence of affordable housing and other obligations necessary to make the development acceptable, secured by a s106 agreement, fails to secure affordable housing and planning related infrastructure, contrary to Policies H2 and SS7 of the Torbay Local Plan and Policy TH4 of the Torquay Neighbourhood Plan.

Contrary to the development plan

The proposed development is a departure from the development plan and the planning benefits of the scheme do not present an overriding reason to grant planning permission, when considering the harm to the landscape character and setting of heritage assets, the lack of adequate access to local facilities and services together with the broad unsustainability of the development that is likely to be over-reliant on the private car. The development therefore does not accord with the development plan when considered as a whole and material considerations do not indicate that a decision should be made counter to the development plan. This conclusion is made in accordance with guidance contained within the NPPF, notably Paras. 11, 12 and 14.

Development Plan Relevant Policies

SS1 - Growth Strategy for a prosperous Torbay
SS2 – Future Growth Areas
SS3 - Presumption in favour of sustainable dev
SS8 - Natural Environment
SS9 – Green infrastructure
SS10 – Conservation and the historic environment
SS11 - Sustainable Communities Strategy
SS12 - Housing
SS13 - Five Year Housing Land Supply
SS14 - Low carbon development and adaption to climate change
NC1 – Biodiversity and geodiversity
TA1 - Transport and accessibility
TA2 - Development access
TA3 - Parking requirements
C1 - Countryside and the rural economy
C2 - The coastal landscape
C4 - Trees, hedgerows and natural landscape
H1LFS - Applications for new homes_
H2LFS - Affordable Housing_
H6 - Housing for people in need of care
DE1 - Design
DE3 - Development Amenity
DE4 - Building heights
ER1 - Flood Risk
ER2 - Water Management
W1 - Waste management facilities
ES1 - Energy
HE1 - Listed buildings
SC1 – Healthy Bay

TS1 – Sustainable Development
TS4 - Support for Brownfield and Greenfield development
TH2 - Designing out crime
TH4 - Affordable homes from greenfield developments
TH5 - Sustainable later life homes
TH8 - Established architecture
TH9 - Parking facilities
TH12 - Maidencombe area
TE3 - Development on Established Woodland
TE4 - Green Corridors
TE5 - Protected species habitats and biodiversity
TE6 - European Protected species on specified sites
THW3 - Community Facilities
THW4: Outside space provision
THW5: Access to sustainable transport
TTR2 - Sustainable Communities

Expanded Summary of Consultation Responses

QC Legal Advice

Two matters covered, use class of the development and the suggested ‘fallback’ position based on the historic permission.

Use Class

In terms of the use class the advice is that the proposals do not constitute a Class C2 use and advised that a more appropriate description (in terms of Use Class) is a sui generis use with elements of Class C3. This is because, irrespective of the proposed age restriction and availability of care packages, all of the units of residential accommodation in the proposed retirement community are self-contained apartments where, if they wished, their residents could lead a “private domestic existence”. These apartments are therefore considered C3 dwellings. It is noted that the definition of Use Class C2 (residential institutions) expressly does not include the provision of care to people in need of care within a Class C3 dwelling. It is pointed out that Counsel expressed that ‘A dwellinghouse does not cease be a dwellinghouse merely because its occupier is in receipt of care, or because the accommodation is provided with facilities (such as wheelchair accessibility) to enable that care to be provided’. Also it was raised that the availability of communal facilities in the scheme as a whole does not alter this position.

‘Fallback’ position

Counsel advice is that the “2008 permission” (planning permission P/2008/1418) is no longer extant and capable of implementation. The 2008 permission was limited in its scope and applied to only part of the site; it sought to alter the “mix of accommodation, elevational treatment and floorspace” of permission P/2006/0474/MOA (‘the 2006 Permission’). It is advised that despite its description the 2008 Permission was a standalone consent and could not operate to change the terms of the 2006 Permission. Although some works (namely, the construction of a section of road at Sladnor Park) have been undertaken apparently pursuant to P/2006/0474/MOA, those works could not lawfully implement either the 2006 Permission or the 2008 Permission.

Torquay Neighbourhood Forum

The additional information does not change alter a fundamental objection as originally supplied (other than reference to C2 classification). The proposed development remains an almost complete departure from the development plan on many levels.

The proposed development does not conform to numerous policies of the Torquay Neighbourhood Plan and therefore must be refused. The site is not an allocated development site within the TNP and its development within the countryside is unwelcomed. The site lies in an area of tremendous environmental and landscape sensitivity. It is identified within the TNP as in an area 'highly sensitive' in terms of the Landscape Character Assessment of Torbay Part 2 (2010).

The site is almost wholly Greenfield as the majority of the historic tourist accommodation buildings have been demolished many years ago and have now 'blended in to the landscape – this was particularly so before the developer cleared areas to expose foundations. It is acknowledged that there is a small area of chalets that would be deemed brownfield.

Because the development is largely on a greenfield area of the site, TNP policy TS4 confirms this development is not supported. Any development of the brownfield area of the site supports development only where there are 'no adverse impacts having regard to policies within the TNP'. In this case it does have adverse impacts and therefore should not be supported. Greenfield will only be supported if it is an 'allocated site or the loss is required to meet the strategic economic policies within the Local Plan'. This is not the case.

TH12 does not support major development in countryside areas (C1 Local Plan designation) – it specifically states 'will not be supported'. The site is located in C1 area and Greenfield development 'should be resisted unless it's compatible with the rural character and setting and fits within the constraints of the existing visual character of the area'.

The development does not comply with TNP Policy TH8 as it does not respect the local character in terms of height (being some 6 stories high), scale and bulk (the area consists mainly individual modest houses), neither does it reflect the identity of its surroundings (being on the edge of a rural village in open countryside/coastal area) – '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.'

PolicyTH5 states that accommodation for assisted living will be only be supported where 'their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities'. The location of the development fails to be easily walkable (it is a steep half mile route) for people with reduced mobility to the 'fragile' bus route (that is normally hourly and daytime only and is currently suspended). In addition it is 2 miles from the site entrance to the nearest doctors' surgeries, pharmacies, and shops along a very busy road with no pavements that is hazardous for walking or cycling.

The Environmental Impact assessment does not appear to comply with Policy TE6 that states that there must be a Habitats Regulations Assessment that also considers

the construction phase. This is particularly important as the site is at the end of a Greater Horseshoe bat flyway and has a year round roost in a tunnel system for the GH bats and other species just a few metres away from the construction area. The area is also an important Cirl Bunting nesting and foraging area.

The proposed development does not appear to contain an assessment that shows there is no impact on the Marine Policy and Management Plan for the area (Policy TE7).

The proposed development does not appear to offer affordable homes as part of this application.

There does not appear to be any CIL assessment

There appears to be no referenced Torquay/Torbay needs requirement for this type of development in terms of policy or units – the application appears to rely on national average figures that are not area specific. In fact the Torbay Council strategy is to support people living in their own homes. It is reasonable to say that the cost of this sort of accommodation is likely to be affordable only to wealthy people from outside the area as Torbay has many deprived areas and average wages are low. The anticipated selling cost of the proposed apartments is 2 to 5 times the average house price in Torbay based on similar developments in other parts of the UK. Reliance on 'health migration' is not the basis of sustainable development.

Torbay Council Strategic Planning (Policy) Officer

The proposal should be counted as housing for five year supply purposes, and as such the presumption in favour of sustainable development is applicable. Even if the LPA treats it as a Class C2 care home (which I don't consider it is) then the use will release a similar number of dwellings in the general housing stock. This must be treated as a significant factor in favour of granting planning permission. I consider that it also renders the development liable to affordable housing as well, and note that there is separate legal advice on this.

From a Policy perspective, the proposal is in significant conflict with the adopted development plan. There are several main areas of policy concern. Firstly the scale and massing of development in the countryside and valued local landscape, contrary to the policy of restraint in Maidencombe. Secondly, the location of a care village in a steep and relatively remote location away from local communities. There are clearly a plethora of design, massing and ecology matters that the Case Officer will need to take a view on.

From a Local Plan point of view, a retirement/care village was approved under the previous Local Plan which set out similar policies to the current Local Plan. There is a need for consistency, but there are also different material considerations in 2020. Most significantly the advent of neighbourhood planning. The development conflicts directly with several Torquay Neighbourhood Plan Policies such as TH8 and TH12. There have also been 14 years of naturalisation of the site since 2006, and a total of 30+ years since the previous use ceased.

It may be that there is a case to approve a smaller development more within the brownfield element of the site: that would need to be a judgement based on the specific

assessment of the site. However, based on a weighing up of the various factors, there is a strong case argue that the adverse effects of granting permission for the current scheme would significantly and demonstrably outweigh the benefits.

Torbay Council Strategic Planning (Health) Officer

The comments below are specifically related to issues of public health and adult social care and supplement broader strategic planning comments.

Local Plan Policy H6 (Housing for people in need of care) states that retirement villages (and housing other forms of housing and care accommodation within C3 and C2 use classes) will only be approved where certain conditions are met. In terms of this response the comments focus on Policy H6 and (i) 'clear evidence of need', (ii) 'accessible to facilities and transport' and (iv) 'not add undue pressure on local healthcare or social services'.

Evidence of need

The application is accompanied by a report produced by Carterwood which provides an assessment of need in the context of older people's housing and care accommodation within Torbay. There is a major weakness of the Carterwood report, in that the assessment of need is based on using prevalence rates of 40 units per 1000 which are over of over 5 times that used as a basis for the evidence underpinning the Plan for Housing in Later Life. Furthermore, the prevalence rates quoted in the Carterwood report are generic and indicative in that they would apply to any local authority area and are limited in terms of inference which should be taken.

The older people's housing sector and commissioning strategies (moving towards new models of care) have changed considerably over the last 10 years.

Emerging evidence suggests a net need for housing with care of 276 units across Torbay through to 2035 (around 19 units per year on average). Broken down by town that would indicate 133 units in Torquay (9 units per year), 77 in Paignton (about 5 per year) and 67 in Brixham (about 4 per year). The 267 unit figure is still significant but greatly less than those figures put forward in the Carterwood report. The application proposes 159 units of housing with care which would contribute substantially towards delivering against the need. However the scale of need is not so great as to suggest that the application alone itself would be crucial, and presents a compelling case, to meeting that unmet need between now and 2035.

The draft Plan for Housing in Later Life identifies this need and as supported by the recently adopted Housing Strategy Delivery Plan 2020-2025, there are plans and actions to deliver against this need in sustainable locations within the existing built up area of Torbay. This approach fits very clearly with the qualitative focus group and survey data carried out locally which indicates very clearly that people favour living in accommodation within the existing built up areas of Torbay.

Accessible to facilities and transport

Local Plan Policy H6 requires new developments to be accessible to facilities and transport. In this instance, the new development proposed is located outside the existing built up area of Torbay within a countryside area which is not located close by to many existing facilities or existing public transport options. The development

proposal does seek to mitigate this by offering to provide a number of facilities onsite and access to a 'community minibuss or village transport service' both of which could be utilised by residents of the development proposal and qualifying existing residents living within Maidencombe. However, that does not outweigh, and is perhaps reflective of, the unsustainable location of this site in this regard. Policy TH5 of the Torquay Neighbourhood Plan states that development such as that proposed will be supported where their location makes them easily accessible by walking or public transport to shops, the town centre and community facilities, which has the effect of directing developments of this nature to the existing built up area of Torbay rather than peripheral sites within the countryside.

Impact on local healthcare or social services

A key issue for local health and care partners has been to understand the extent to which the proposal will attract people residing within the local area compared to those attracted living externally to the area. This is one important component of understanding net impacts of a scheme on local healthcare services. It has been stated by the applicant that it is anticipated that the vast majority of persons within the development will be sourced from within 10 miles of the site and that this is comparable to other schemes operated by the applicant. Whilst the applicant has displayed confidence in this approach, it is felt by partners that the accommodation on offer at the Maidencombe is tailored towards individuals who have very much above an average level of wealth to enable them to afford to be able to live on the development. It is felt, based on experience of the local care market and older people within Torbay, that this will be very difficult to achieve and without some controls, a much higher proportion of accommodation would be utilised by persons living outside Torbay, where the market on a national scale is much greater. The applicant has stated in discussions that they would be open to the prospect of a local restriction being added as a condition to occupancy of units which would be welcomed and in theory go a considerable way to providing comfort in this regard, however concern still remains in terms of the extent to which such a condition can remain and be enforced on a long term basis. The Planning Contributions and Affordable Housing SPD sets out a S106 contribution rate to partially mitigate the impact of such facilities which in the case of extra care amounts to £1,300 per unit (where they do not have a local restriction). If this was applied to every unit at Sladnor Park, the contribution may amount to £206,700.

Local care system partners have explored whether the proposed development could act as an opportunity for hub and spoke facilities to be developed/utilised by health and care partners in the NHS, GPs, etc. The conclusion of that investigation has been that there are no partners in the system that have a desire to seek to utilise such facilities on-site (e.g. GP practice rooms, etc.). It is felt a key reason for this is the relatively isolated location of the site.

Torbay Council Strategic Planning (Transport) Officer - Incorporating the views of the Highway Authority

Pending comments.

Torbay Council Drainage Engineer

Following the latest information that has been submitted by the developer in support of the above planning application the proposed surface water drainage system now

incorporates the flows being pumped from the development to the combined sewer system in Teignmouth Road at a controlled rate of 3 l/sec. The developer has submitted hydraulic calculations and revised drawings for this latest proposed surface water drainage system.

Where developments utilise a controlled surface water discharge from the site, which incorporates storage, within Torbay it is usual for the developer to design the system in order that the half drain down time for the storage does not exceed 24 hours. In the past where it is not possible to provide 24 hour half drain down for the 1 in 100 year storm event plus 40% for climate change we have accepted 24 hour half drain down for the critical 1 in 30 year storm event plus climate change. The half drain down time for the critical 1 in 30 year storm event plus 40% for climate change on the proposed system is 41.4 hours which exceed the 24 hour requirement. It is agreed that there is no national guidance that requires 24 hour drain down time for attenuation storage however following the SUDS Manual for infiltration this has always been required within Torbay.

The requirement for 24 hour drain down time is to allow storage to be available for follow on storm events. The developer has identified a guidance sheet produced by Susdrain which states the following “the adoption of 24 hour half drain down times for design events of 1 in 100 years plus allowances for climate change is questionable and a more considered approach may be reasonable (e.g. ensuring that the drain down in 24 hours provides room for a subsequent 10 year event).” The developers submitted drainage design for the critical 1 in 100 year storm even plus 40% for climate change does not allow capacity within the storage for a 1 in 10 year event plus 40% climate change, it only allows capacity for a 1 in 10 year event without climate change.

If we were to accept the recommendations contained within the Susdrain guidance the developer should be providing adequate storage for the follow on 1 in 10 year storm event plus 40% climate change which would result in an additional 388m³ of storage being required.

There remains concern that the surface water system as proposed is not sustainable due to the excessive pump running times which will result in excessive energy usage. In addition there will be excessive wear and tear on the pumps leading to increased maintenance requirements. The developer has not identified his procedures for dealing with pump failures or power failures in order to reduce the risk of flooding during these events. These should be included within the maintenance plan.

The surface water drainage design has been based on all of the surface water run-off from the impermeable areas on the development being able to enter the underground system. It needs demonstrating that the inlets to the underground system have been designed to receive the flows from the critical 1 in 100 year storm event plus climate change.

Torbay Council Interim Landscape Officer

It is clearly evident that the primary character of the locality is one of countryside interspersed by a fine grain of modest built development. The locality of the application site visually is largely made up of a combination of trees, hedgerows and fields which form a relatively steep costal landscape. The Torbay Landscape Character

Assessment includes Sladnor Park in more detail under Type 8 'Coastal Slopes and Combes'. The key characteristics of this character type are archetypal rural descriptions that hark towards an unspoilt, tranquil and remote rural area.

In terms of landscape impact it is appropriate to consider the impact from surrounding areas including views from the sea. The experience of this area of landscape from within the undeveloped coast designation is of particular note. The views obtained from public rights of way and areas of public access are often glimpses of the countryside and sea scape beyond as opposed to large open vistas. There is a point that the value of the glimpsed view is an important aspect of seeing/ experiencing this section of landscape and as such the weight given to glimpses should be high in landscape assessment terms.

A desk top review reinforces the fact that this part of the coastal strip has a distinctly undeveloped character and appears very much as a mature undeveloped landscape but clearly one which has been managed and cultivated. The fact that the built environment in the locality is of a very modest scale contributes to the undeveloped appearance of this stretch of coastal landscape/ countryside. As a consequence there is a clear logic to the Local Plan policy framework (supported by the recently adopted Neighbourhood Plan) which seeks to protect the undeveloped characteristics of this stretch of coast and acknowledges its value as countryside.

It is viewed that the proposed scale and indeed design of the development, which somewhat inevitably seeks to exploit the coastal views by introducing large areas of glazing, will cause a significant and harmful impact upon the undeveloped coast. It is noted that external lighting and internal lighting will have a cumulative impact.

Consideration should be given to the visual impact of the access works, and evaluate the level of impact arising as this would presumably serve to create an 'urban' standard of access in contrast to the existing arrangements which are more typical of rural context.

The perception of residents and visitors to the site of the landscape is material and this perception will undoubtedly be influenced by the scale of the development proposed. The resultant development will as a consequence significantly change the character of the area

Returning to the policy framework in terms of landscape sensitivity it is important to give significant weight to the policy framework.

Some of the potential views of the development are currently restricted by offsite vegetation, and would point that this is not controlled by the applicant and there is no certainty that this vegetation would be maintained in the longer term. This is not a situation the applicant can reasonably control but note that with ongoing issues including Ash die back, the landscape is likely to change. Some allowance needs to be given to this point, as it cannot automatically be assumed that the current off site position in terms of views of the site will be sustained.

With regard to the landscape assessment provided as part of the application it was raised that the images presented did not appear to be fairly balanced in that the illustrations of the proposed schemes showed fully rendered elevations, in contrast to

the previously approved scheme which was shown in block form. Having researched the matter further I am lead to believe that the previously approved scheme was in fact a combination of render, cedar and stone with zinc roofs. Thus, I suspect whilst the approved scheme is not without harm to the landscape in my opinion, the impact would be likely to be much softer than that portrayed in the landscape assessment.

The submitted document suggests that limited weight should be afforded to the Neighbourhood Plan as at the time of the assessment the plan was still emerging.

The use of two base lines Baseline 1 - the current situation, and Baseline 2 - The previously approved scheme is logical. However, the observations regarding the shortfall of details used to portray the previously approved scheme stands.

With regard to the Baseline 1 assessment that 'the proposed development would merge into the existing landform and tree cover and would be perceived as a subservient element within the enclosing combe', this is something that is disputed. The scale and spread of the development is very urban in nature and will start to erode the character of the area and appears to be in direct conflict with the Undeveloped Coast Policy objections. As a consequence I would suggest that the magnitude of impact is under estimated.

Whilst there are numerous viewpoints provided there is a running theme in terms of the issues I have identified and the consequent conclusions on impact from each viewpoint. As an example viewpoint 9, from the south west coastal path, constitutes an important viewpoint, hence it has rightly been identified in the assessment. The submitted assessment evaluates the impact in relation to baseline 1 as being slight/moderate and suggests that the magnitude of change would be low in both summer and winter months. Accounting for some of the reasons outlined above I do not agree with this assessment. The introduction of buildings of the scale proposed would be a stark contrast to the existing scheme, whilst I accept the existing development on the site is not without some adverse impact it is relatively low level and of a scale more appropriate to the context whilst the heights of the proposed development is in my view alien to the context and would appear as an entirely unexpected feature in a protected landscape location. In my view the proposed development will cause a significant deterioration in the existing view. It is likely to form a major and immediately apparent part of the scene that affects and changes its overall visual amenity and I would suggest the impact therefore would be more appropriately assessed as major adverse/ moderate adverse. Again I would highlight that the photo montage does not account for the internal illumination of the proposed buildings and areas of glazing proposed. Similarly the assessment against Base line 2 exhibits the same under estimation of impact in my opinion, by suggesting that the visual impact would be slight-Neutral adverse. The photos indicate that the spread of development and visual impact would be greater than that previously opposed.

I do appreciate that the proposal seeks to provide a comprehensive landscaping scheme and maintenance regime which needs to be factored as a means of mitigating the adverse impacts. However, as it currently stands the site albeit unmaintained does in my view contribute positively in relation to the undeveloped coast/ countryside objectives, and these are not outweighed by the landscaping proposed. I see no reason why for example a less intense development which better meets the

undeveloped coast objectives could not achieve some degree of landscape maintenance/ restoration.

Torbay Council Arboricultural and Landscape Officer

As a general note additional information addresses many of the issues raised by the previous comments however there are still a number of concerns.

The responses indicate that the individuals within the new properties would not be able to make applications to carry out works on TPO'd trees – by what mechanism would this be enforced? Should Torbay Council receive an application to carry out tree works from whom-so-ever, providing the application is considered valid, we cannot reject the application.

Section 5 relate to the submission of an AMS to satisfy concerns over the potential damage to trees with operations being carried out within the RPA. Although an AMS can be supplied for the digging of trenches within RPAs no reference is made of the other works or level of incursion into the RPAs where new roads, or reduced levels are mentioned. I have reduced confidence in the ability of the RPAs to be adequately protected and supervised given the level of harm that could be caused and the consequences of significant damage to the tree roots possibly resulting in the loss of more high and moderate quality trees.

The relationship of the buildings to the trees does need to be considered further. Perceived threat/risk can lead to future pressure to fell trees – this loops back to point 1 in respect of who will be applying for tree works.

The proposals for the folly could be removed, although I understand the reasoning behind the want for a view, however the heavy thinning would result in significant tree loss from the woodland and the potential to disturb the natural ecology of the site. We are in a 'climate emergency' with the additional pressures of Ash Dieback Torbay potentially losing up to 30% of its canopy cover through the loss of the Ash tree. So while I am happy to advocate and support extra planting to ensure continued canopy cover into the future we are also looking to retain as many trees as we can which will be augmented by the extra planting.

I am generally relaxed about the new entrance and happy to go with either proposal providing significant mitigation is provided.

As a general note the crux of all the above is in the detail and the scheme may not be deliverable without significant on site changes during the construction phase which may result in extra tree loss/damage.

In addition comments regarding two blocks south of the village core.

Concern raised that although it appears that the construction could take place without physical harm to the trees (subject to detail) there are a number of considerations to be taken into account.

The trees are predominantly deciduous and therefore will be in leaf during the summer months and will effectively screen the lower flats from public areas, however the flip side of this is that the occupants will have very limited view through the trees.

The topography of the land to the west is steep woodland with aerial imagery indicating that much of the build area will be in shade during early to late afternoon.

Despite submissions and representations stating that no TPO applications will be submitted by any individual within the development with all submissions/applications conveyed through a management company the pressure on the trees to be removed or unreasonably pruned to gain a view will be significant. There is also the potential for illegal tree pruning/removal to gain a view – eroding the tree stock and increasing the level of visibility of the blocks.

During the winter months (dormancy period) the natural spacing of the trees will allow for a diffused view of the building between the stems of the trees with potentially the upper storey being visible. This may later be countered by the growth of the trees.

Tree deposition – being deciduous every autumn the surrounding broadleaf woodland area will lose its leaves with the potential for complaints to arise from excessive leaf deposition in, on and around the development.

Summary point that although the proposal can be physically constructed insufficient detail has been considered to the wider issues associated with the development of the two blocks should it proceed. Recommendation the proposal of developing 2, 6-storey blocks is not sustainable from an arboricultural perspective.

Generally in regard to additional comments the loss of the ash trees will lead to areas within the woodland that are opened up, potentially lead to increase in windthrow of the adjacent trees and creating the unwanted coupes. Whilst replanting of these areas will be necessary any further thinning of the woodland is likely to lead to a reduction in the canopy cover. The thinning proposals for the viewing cone are likely to be in sufficient and a desire to want more trees removed may well be forthcoming in the form of further applications for tree work or illegal felling.

Torbay Council Interim Heritage Officer

The assessment should consider designated (Conservation area and surrounding listed buildings) and non-designated heritage assets (Lodges and Folly).

With regard to designated heritage assets the site has a close relationship with Maidencombe Conservation Area located to the north east. The Conservation Area includes listed buildings and as such it is important to consider the impact upon their setting albeit that the CA designation provides a suitable delineation of the immediately sensitive landscape. The Conservation Area appraisal makes specific mention of the value of the landscape.

The proposed development will introduce large scale buildings which will be alien to the character of the locality and the setting of the Conservation Area and its associated listed buildings. However, whilst there are separate issues in terms of the landscape impact overall, in relation to the designated heritage assets it is judged that views from

within the CA and the direct visual relationship with the application site and CA is limited. The applicants heritage assessment fairly refer to glimpsed views of the proposed development within the central and northern parts of the application site being afforded. However, in terms of the degree of harm I consider that this will still cause harm of a scale which could reasonably fall within the less than substantial category.

The Twentieth Century Society have highlighted the importance of the existing lodges on the site which would be displaced by the proposed development. Whilst the lodges were not deemed to be worthy of listing by Historic England the Society's consultation response details the value of the buildings. In light of their observations it is appropriate to recognise the lodges as being heritage assets albeit undesignated. The removal of the lodges will result in harm, however, accounting for the fact that the buildings do not qualify as listed buildings their value is qualified accordingly. Policy SS10 of the Torbay Local Plan confirms that 'all heritage assets will be conserved, proportionate to their importance'. The proposed development clearly will not serve to conserve all the lodges as heritage assets although two are excluded from the development site and in this respect I would conclude that harm would be less than substantial but nevertheless needs to be accounted for as part of the planning balance.

The heritage assessment also highlights the 19th century folly and rubble stone boundary wall as being non designated heritage assets. I agree with the conclusion that the repair of the folly should be considered as a heritage benefit. Therefore if the scheme were to be approved it would be desirable to ensure that the renovation works are carried out in a timely manner and that consideration is given to ensure that the folly has a sustainable future.

Whilst the benefits of restoring the folly as a non-designated heritage asset should be regarded as being a positive, this does not outweigh the harm to heritage assets identified. Conclude that the resultant harm should be considered as less than substantial and therefore weighed as part of the overall planning assessment as required by the NPPF.

Devon County Archaeologist

The proposal is sited in an area of archaeological potential. A mansion at Sladnor was built in the 1770s. The parkland also contains the earthworks of a medieval field system.

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

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

The WSI should be based on national standards and guidance and be approved by the Historic Environment Team.

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

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

Torbay Council Ecology Advisor

General ecology

Having reviewed the documents and consultee responses provided it is considered that the applicant has provided a thorough and robust ecological assessment overall, and this is welcomed. However, there seems to be undue emphasis on the importance of providing pasture for an organic cattle herd to provide foraging opportunities for greater horseshoe bats, rather than the necessary habitat creation and enhancement that will maintain populations of greater horseshoe bats, cirl bunting, reptiles and the invertebrates that support these species.

Although some of these issues can be agreed following determination, i.e. through conditioned amendments to the LEMP, it is considered that the applicant should provide more details with regards to the reptile mitigation and monitoring prior to determination. If such details are not submitted and approved in writing by Torbay Council prior to determination, it is recommended that this application is refused.

Having considered further information submitted in February 2020 it is considered that further bat activity surveys to inform the HRA are not required at this stage. Repeat bat emergence/re-entry surveys should be undertaken prior to the demolition of the chalets as a condition of planning consent. The mitigation proposals for slow worm are inadequate and lacking in detail. A more detailed reptile mitigation strategy should be provided prior to determination, incorporating additional habitat enhancement/creation measures, and clear details of phasing and monitoring. If such details are not submitted and approved in writing by Torbay Council prior to determination, it is recommended that this application is refused.

Further comments are awaited on the more recent ecology information.

European sites

Consideration given to the South Hams Special Area of Conservation (SAC) and Lyme Bay and Torbay Site of Conservation Importance (SCI) (marine). Habitat Regulations Assessment / Appropriate assessment undertaken to assess likely impacts.

Conclusion that subject to mitigation, as outlined in Section 16 of the HRA/AA, will ensure that the likely significant effects on Annex I habitats and Annex II species are avoided. The various mitigation measures will need to be secured through conditions and/or appropriate clauses in the Section 106 Agreement attached to any planning consent. It is therefore concluded that this proposal will not have an adverse effect on the integrity of the South Hams SAC or Lyme Bay and Torbay SCI.

Natural England

South Hams Special Area of Conservation / Lyme Bay and Torbay Special Area of Conservation

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment (13 May 2020) of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.

Your appropriate assessment concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.

Torbay Council Affordable Housing Team

Torbay Council's affordable housing policy requires 30% affordable housing to be provided on Greenfield sites and 20% on Brownfield sites. Within the documents submitted it is difficult to say for sure what the split of the land is but I would estimate around 80% of the development as Greenfield and 20% as Brownfield land but welcome further clarification on this. Using the % figures I have given (and these could be subject to change) and on a scheme of 159 units we would therefore expect to see an affordable housing provision of 44 units.

Provision of the affordable housing will be sought on the basis of 1/3 Social Rent, 1/3 Affordable Rent and 1/3 Shared Ownership. The bedroom mix should be proportionate to the site as a whole with a pepper potted approach to the layout and as per section H6 of the Local Plan for a scheme providing 44 affordable units that the provision should also include 2 wheelchair adapted units.

Torbay has a high need for affordable homes with currently over 1,300 households on the waiting list for rented accommodation and unfortunately as it currently stands the scheme is proposing no affordable housing provision.

To date we have received no evidence as to why the scheme is unable to provide the affordable housing policy requirement and as no Independent Viability Assessment has been provided we will have to withhold further comments or provide support for the scheme until we have had an opportunity to review an IVA.

Torbay Council Environmental Health Officer

No objection subject to a condition requiring a construction / demolition management plan being submitted for the approval of the L.A. prior to commencement of work.

South West Water

South West Water has no objection.

Environment Agency

No objections subject to inclusion of conditions which address concerns over issues related to groundwater and contaminated land. We have no outstanding issues with the Flood Risk Assessment.

RSPB

The RSPB currently objects to this application because in our view the mitigation measures proposed are not sufficient to ensure no adverse impacts on cirl buntings. We have recommended amendments that we consider will give greater confidence that adverse impacts can be avoided, particularly on cirl buntings, and benefits provided. If these amendments can be agreed and secured, eg, via conditions or obligations on any permission, we will withdraw our objection.

Police Designing Out Crime Officer

The development, as described, will introduce a demographic of a population, considered in some cases to be one of the most vulnerable groups within our society, as such all those involved in the process have an absolute duty of care to ensure that residents will be safe and secure. From a designing out crime, fear of crime and disorder perspective crime prevention through environmental design should be fully considered and implemented wherever possible. Also Secured by Design (SBD) is a crime prevention initiative owned by the Mayor's Office for Policing and Crime (MOPAC) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial and unacceptable behaviour and conflict within developments by applying the attributes of Environmental Design. From a designing out crime, fear of crime, antisocial behaviour and conflict perspective adequate parking provision should be duly considered. It would seem that the owning of private vehicles remains the preferred method of transport for many, regardless of the any proximity to local amenities.

Historic England

We do not wish to offer any comments. We suggest that you seek the views of your specialist conservation and archaeological advisers, as relevant.