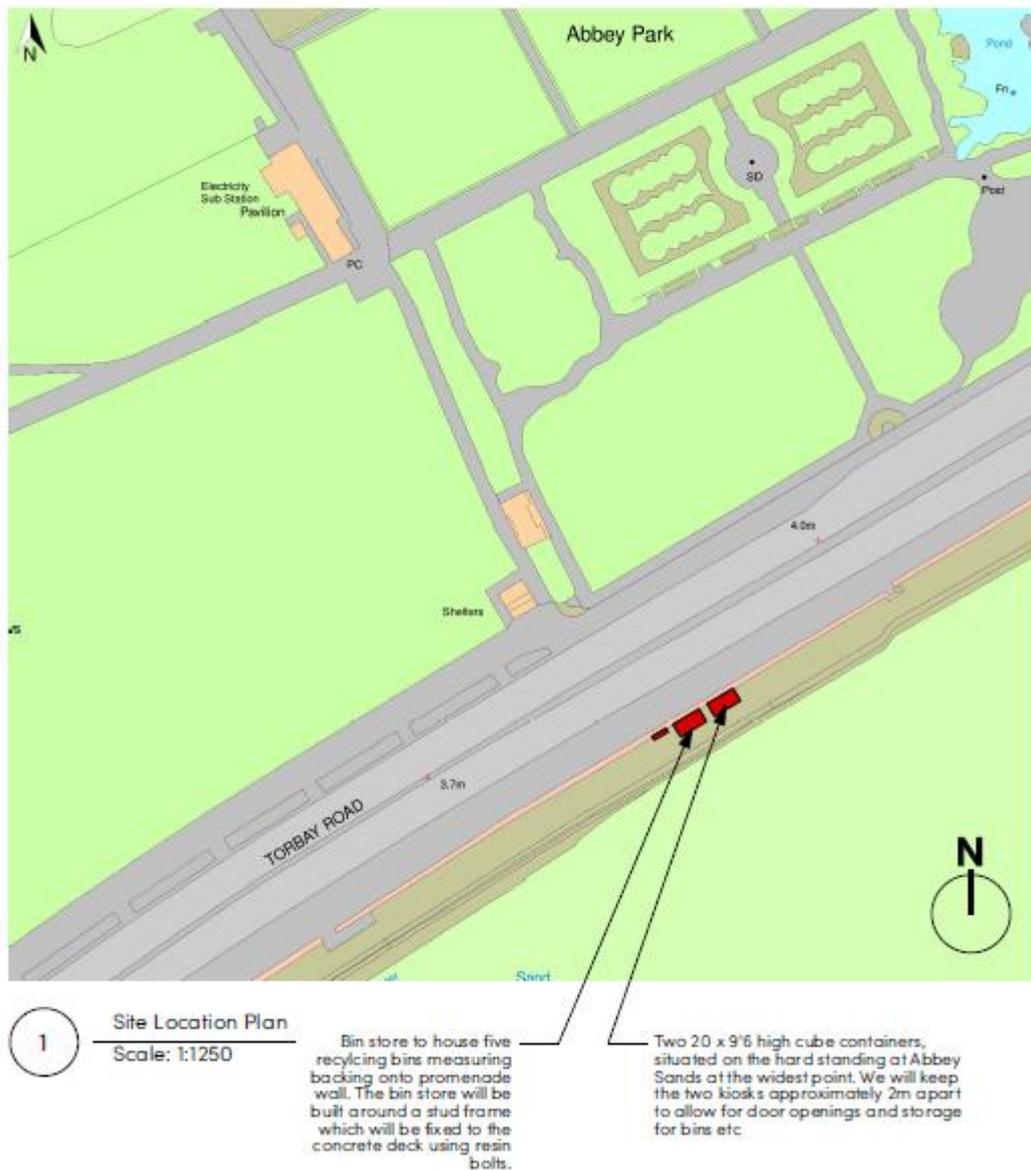


TORBAY COUNCIL

Application Site Address	Torre Abbey Sands Beach Promenade Torquay
Proposal	Installation of 2 x 20ft converted shipping containers to house mobile catering concession and water sports rental. (Retrospective) (Revised plans received 03.06.21)
Application Number	P/2021/0300
Applicant	Mr S White
Agent	
Date Application Valid	12.March.2021
Decision Due date	07.May.2021
Extension of Time Date	
Recommendation	<p>Approval subject to:</p> <p>1. The planning conditions outlined below, with the final drafting of planning conditions delegated to the Assistant Director of Planning, Housing and Climate Emergency.</p> <p>The resolution of any new material considerations that may come to light following Planning Committee to be delegated to the Assistant Director of Planning, Housing and Climate Emergency, including the addition of any necessary further planning conditions or obligations.</p>
Reason for Referral to Planning Committee	The application has been referred to Planning Committee because it is on land owned by Torbay Council, is not a minor variation to an existing planning permission, and the application has received objections from neighbours, the Council's constitution requires that the application be referred to the Planning Committee for determination.
Planning Case Officer	June Pagdin

Location Plan



Site Details

The application site is on the promenade at Tore Abbey Sands Beach in Torquay. It comprises a small area (footprint of approximately 39sqm in total) against the stone wall between the beach promenade and the footway on Torbay Road. It is approximately 67m from the foot of the pedestrian access slope from Torbay Road and 50m from the access steps opposite the Riviera Centre.

The promenade is a level pedestrian route along the top of the beach. It is approximately 6m deep and is at a lower level than Torbay Road; separated from the

footway on Torbay Road by a stone wall. Wide, shallow-terraced steps lead down from the promenade to the beach on the seaward side.

The site location has been amended during the course of the application to a position outside the Scheduled Monument of Torre Abbey. It remains within the Core Tourism Investment Area of Torquay (Harbourside, waterfront and Belgrave Road) and in Belgravia Conservation Area. It is within Flood Zones 2 and 3 as designated by the Environment Agency. The beach is part of the Torbay Marine Conservation Zone.

Description of Development

Full planning permission is sought for the following:

- Two storage cabins clad in Cornish Larch (3m high x 3m deep x 6m long)
- One to be used as a paddleboard rental unit
- One as a catering unit -selling drinks and snacks
- Presence and use of cabins to be seasonal from beginning of May to end of September for a period of five years (May 2021 to September 2026)
- Cabins to be set upon "feet" which are bolted to the ground
- A bin store for five recycling bins also clad in Cornish Larch (1.3m high x 0.9m deep x 3.2m long)

A Design and Access statement was submitted. The small teardrop banners and signage would be classed as advertisements and governed by the advertisement regulations. These are temporary/ moveable and can be stored in the cabins overnight.

It should be noted that the initial proposal located the cabins on the shoreline of land within the Scheduled Monument of Torre Abbey Grounds. The location has been amended to outside the Scheduled Monument Boundary, seaward of the Riviera Centre.

The cabins have been installed and are in use for the purposes applied for during the planning application process, as such this is a retrospective application.

Pre-Application Enquiry

None

Relevant Planning Policy Context

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

Development Plan

- The Adopted Torbay Local Plan 2012-2030 ("The Local Plan")
- The Torquay Neighbourhood Plan ("The Neighbourhood Plan")
- Healthy Torbay Supplementary Planning Document (HTSPD)
- Belgravia Conservation Area Appraisal

Material Considerations

- National Planning Policy Framework (NPPF 2021)
- Planning Practice Guidance (PPG)
- Published Standing Advice
- Planning matters relevant to the case under consideration, including the following advice and representations, planning history, and other matters referred to in this report.

Relevant Planning History

None

Summary of Representations

Approximately 19 objections were received to the original proposal in which the following matters were raised:

- Shipping containers do not improve the character and appearance of Belgravia Conservation Area
- Incongruous Visual impact on seafront and beach
- Would not enhance Torbay's tourism offer
- Containers were installed before planning permission obtained
- Position in the Abbey Grounds is unsightly
- Much bigger than previous container (referring to previous years)
- Need to be clad and to only be seasonal
- Some support for water sports
- Not mobile as fixed and bolted into concrete
- Another catering facility will compete with existing ones
- Place it further along not opposite an existing cafe
- Catering - not adequate ventilation and fire safety
- Smells of cooking food and waste on the promenade and beach
- Marketing of catering opportunity was not wide enough
- Queues for coffee will impede promenade
- Concern about waste build up on beach
- What will the lifeguard and coast guard provisions be?

It should be noted that matters relating to commercial competition in the tourism industry are not a material planning concern. The details of leases with Torbay Council are also not planning matters and are responsibility of Torbay Development Agency. Lifeguard provisions are not a material planning consideration for a development of this scale. However, for information, the beach does have blue flag status without an RNLI lifeguard provision

The cabins have been installed and began operating during the course of the planning application process. This report is based upon an assessment of the submitted proposals (as amended).

Summary of Consultation Responses

Torquay Neighbourhood Plan Forum: Initially objected to location. Revised comments following amendment to proposed location. Support for sport and leisure provision and low impact Geopark exploration. Position of cabins now improved subject to agreement of County Archaeologist. Visual impact balanced with health benefits. Support subject to Community Safety and Marine Management Plan issues being addressed.

Historic England: Initial objection to position within the Grounds of Scheduled Monument. Reconsulted and response pending.

Devon County Council Archaeologist: Initial objection to original location due to adverse impact on the setting of the abbey. No objection to amended plans showing siting outside Scheduled Monument.

Torbay Heritage Trust: Comment on original plans: Objection. Shipping Containers will not preserve or enhance the character of the Conservation Area. Contrary to NPPF and Torbay Local Plan Policies C2, DE1. Incremental detrimental changes to the area. Odour of food frying and take-away clutter. Comment on revised plans: Objection maintained to revised location due to impact of design on the Conservation Area.

Natural England: No objection.

Marine Management Organisation: No response.

English Riviera BID: Support. The proposal supports the promotion of water-sports and eco-tourism and caters for enjoying the great outdoors, healthy food and use of local produce.

Torbay Harbours: Support. Torre Abbey beach has been lacking facilities. Proposal is part of aim for Torbay to be a premier resort and obtain Blue Flag status for this beach. Proposal is seasonal (over summer) to address potential storm damage/rough seas over winter.

TDA: Support. Proposal aligns with English Riviera Destination Management Plan, investing in tourism and the Unesco Geopark and creating jobs. Please, confirm months of year to be operated.

Drainage: Support subject to provision of flood mitigation measures in the FRA and only in use between 1st May to 31st September.

Community Safety: Insufficient information regarding food safety: no detail of water supply, waste-water tank must be adequate to meet seasonal demand, no information about fuel for cooking and ventilation, generators should not cause noise or odour nuisance, hand washing and washing-up facilities will be needed.

Waste and Recycling: Applicant has not been in contact with SWISCo. Businesses are able to choose their waste contractor. No objection provided they have refuse collection in place and secure storage provided for waste and recycling.

Planning Officer Assessment

Key Issues/Material Considerations

1. Principle of development
2. Visual Impact
3. Impact on Heritage assets
4. Impact on Amenity of the Locality
5. Impact on Highways
6. Ecology, Biodiversity & Marine Environment
7. Flood Risk and Drainage
8. Sustainability
9. Statement on Human Rights and Equalities Issues
10. Local Finance Considerations

1. Principle of development

Full planning permission is sought for the seasonal installation of two shipping cabins and a waste cabin (all clad in larch timber) on the Torre Abbey Beach Promenade. One cabin is for paddleboard hire and the other a catering facility. The cabins would be in position and operating between 1st May and 31st September each year.

Tourism

The site is within the Core Tourism Investment Area (CTIA) of Torquay Harbour and Waterside. Policy TO1 (Tourism, events and culture) supports tourist facilities and new tourism facilities particularly growth sectors such as sustainable tourism. The Policy supports in principle the provision of new tourist attractions especially those that make positive use of Torbay's marine environment and are in accessible locations focusing on the Core Tourism Investment Areas. Torbay Harbours has commented that the Blue Flag status of the beach is supported by the proposed rental of water-craft. Blue Flag status is a globally recognised award with stringent environmental, educational and safety criteria.

The paddle-boarding hire and the catering unit are considered to be tourism facilities which diversify the range of activities offered to visitors. The proposal would enable the expansion of an existing local business with 6 additional full-time posts and five more part-time ones. Their location within this CTIA is in accordance with Policy TO1. Policy TO3 supports marine-related development where consistent with wider environmental, heritage, biodiversity and amenity objectives.

Healthy Torbay

The Council's Healthy Torbay Strategy aims to improve the health of the people of Torbay and tackle health inequalities. Physical activity is one of the determinants of health and the Council supports provision of healthy activities as one of the

preventative measures against poor health. The Healthy Torbay Action Plan focuses on Physical activity as one of ten key priorities and identifies a key action as targeting residents' inactivity through sports and leisure provision. In addition, Policy SC1 of the Torbay local Plan supports developments that provide opportunities for physical activity for residents and visitors.

Paddle-boarding is a form of water-sport that is a physical activity that enables access to the natural marine environment. Provision of opportunities to take part in this sport are within the aims of the Healthy Torbay Strategy and Action Plan and in principle is in accordance with Policy SC1.

Policy SC2 requires new facilities to be in appropriate locations where they are accessible by a range of transport and comply with other policies of the Local Plan. The proposal provides paddleboard hire on the waterfront of Torquay Bay on Council managed land. The application site is located on Torbay Road, a major bus route within metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. Cycle parking is available at the Riviera Centre and pedestrian crossings provide a link to the beach. The promenade is accessed by a flight of stairs to the north and a ramp to the south. Given this positioning, the proposal is considered to be in an accessible location.

The proposed catering cabin is also supported in principle by these Policies.

In summary, the proposal would provide additional tourism facilities and generate employment in an appropriate location. It would also provide opportunities for physical activity for residents and visitors to Torquay. The proposal is, therefore, acceptable in accordance with Policies SC1, SC2, TO1 and TO3 of the Local Plan and the Healthy Torbay Strategy. This is subject to Policy TO3, which requires development to be consistent with wider environmental, heritage, biodiversity and amenity objectives. These impacts are considered in the following sections of this report.

2. Impact on Visual Amenity

Paragraph 126 of the National Planning Policy Framework (NPPF) states that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. Paragraph 134 of the NPPF states that 'permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions'. Policy DE1 of the Local Plan states that proposals will be assessed against a range of criteria relating to their function, visual appeal, and quality of public space. Policy TH8 of the Neighbourhood Plan requires that developments be of good quality design, respect the local character in terms of height, scale and bulk, and reflect the identity of its surroundings.

The application is for two cabins and one bin store on the promenade on Torre Abbey Sands beach. In the submitted drawings, the cabins are 3m high, 3m deep

and each one is 6m wide. They are made from steel and are, therefore, strong structures. They are finished with dark grey paint and clad in vertical larch wood; a natural and hardwearing material which weathers to pale grey. They are located against the wall of the promenade and are approximately 2m apart. They sit below the level of the road, projecting above the stone wall by approximately 1.4m. They have opening shutters on the seaward side and shutters and doors on the end elevations.

The refuse and recycling store will be finished in the same material and measures 3.2m wide by 1.3m high and 0.9m deep. It sits below the level of the wall and is positioned at the northern end of the paddleboard cabin, nearest the access slope.

The immediate surroundings are composed of natural and manmade materials the stone wall, the red sandy beach and the concrete promenade and steps. The colours and textures of these materials provide the character of this section of the conservation area, that is quite distinct from the areas landward of the sea wall.

The cabins are visible above the promenade wall. However, the promenade is several hundred metres long and the cabins occupy a stretch of around 16m (including the 2m gap between them and the gap between the board store and the refuse bins). Being set down on the promenade below the level of the road their impact is reduced and the effect on visual amenities and sea views is limited in the context of the scale of the bay.

The land behind Torquay Road rises and from within the Riviera Centre grounds views of the sea along the central vista are not affected as the cabins are located to the south below the wall to the gardens that screens the carriage way of Torbay Road. When viewed from the Torre Abbey grounds, the cabins sit behind and below the established shelter which sits in the eastern corner of the grounds and is finished in render and a pitched roof. Views to the south from Torre Abbey grounds allow views of Corbyn Head and the rows of white and pastel coloured beach huts on Corbyn Beach.

Current situation

The installed cabins have been clad. However, the lower part of rear elevation against the sea wall has not been clad. As a result of the cabins being set up on feet part of the rear elevation is seen as the painted ribbed metal. Service provisions (water and electricity) enter the cabins on this elevation below the level of the sea wall. It is considered that the visual impact is increased as a result and the appearance shown in the submitted elevations should be achieved. However, it would not be pragmatic to require amendment to the cladding of the cabins during the peak season. It is recommended that recladding to either level with or below sea wall when the cabins are in place be implemented prior to the commencement of the 2022 season (1st May 2020).

Under the current operation of the site a few canoes and boards are stored upright against the sea wall when not in use and overnight. These are more visible than the cabins due to their colours, height and positioning. Storing them in the cabins when not in use would remove this impact. A condition can be imposed that craft be stored inside the cabins and this is recommended.

In the context of the CTIA, the cabins provide a visual draw and focus for water-based activity on the beach. The cabins are restrained and uncluttered in appearance with natural materials of good quality and muted colours in keeping with the semi-natural setting of the beach. They relate in functional terms to their location. In design terms, they relate to the surrounding context and are not considered to result in a significant visual impact on the promenade and views from the promenade and surrounding land.

Therefore, subject to the above-mentioned conditions over cladding and storage, the proposals are considered to be in accordance with Policy DE1 of the Local Plan. The impacts on heritage assets are considered in the section below.

3. Impact on Heritage Assets

The site lies within the Belgravia Conservation Area and is adjacent to the Torre Abbey Grade 1 Listed Building and Scheduled Monument.

Guidance on considering the impacts on designated heritage assets is provided in Paragraphs 199 to 208 of the NPPF (2021). Paragraph 199 states that great weight should be given to an asset's conservation and the more important the asset the greater the weight should be. Paragraphs 201-202 state 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". It also states that substantial harms should be outweighed by substantial public benefits. Policy HE1 of the Local Plan requires developments to preserve the setting of listed buildings and their settings.

Scheduled Monument

Scheduled Monument designation and Grade I Listed building status are both recognitions of an asset of great importance. Therefore, great weight is due to the conservation of Torre Abbey and its setting. Historic England and Devon County Council's Archaeologist objected to the original proposed location of the cabins within the grounds of the Abbey (as defined by Historic England and shown on the Local Plan Proposals Map). They recommended that an alternative site be identified outside the scheduled Monument in a location that does not compromise the monument's setting or its relationship with the shoreline, which was part of the 12th Century Premonstratensian monastery's domain.

The amended location is outside the Scheduled Monument. This positioning has satisfied the concerns of Devon County Council's archaeologist. Historic England's response is pending at the time of writing.

Conservation Area

The Listed Buildings and Conservation Areas Act 1990 gives Local Planning Authorities (LPAs) powers in regard to heritage assets. Section 72 requires an LPA, in determining planning proposals, to have special attention to the desirability of preserving and enhancing the character or appearance of a conservation area.

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to conserve and enhance conservation areas while allowing sympathetic development within them.

The introductory section of the Belgravia Conservation Area Appraisal describes the area as containing residential suburbs, major hotels and significant amount of open space. Apart from Torre Abbey, most of the buildings date from 1860 and after. However, the area includes coastline, parks, recreation grounds, the walled gardens of Torre Abbey, the rock-faced Royal Terrace Gardens and the private gardens and terraces of numerous hotels. The boundary also includes the beach promenade.

Therefore, a key element of the Conservation Area's character is its provision of formal and informal recreational opportunities within the historic setting. The beach promenade is an established feature along the sea front of Torquay Road and, in addition to a pedestrian walkway, it provides seating opportunities on the terraced steps and open access to the sandy beach. The promenade has no fixed structures other than the seawall, built of local stone, the access steps and a ramp.

Policy SS10 seeks to maintain the character of the conservation area while allowing sympathetic development. The proposal would introduce a structure to this open setting. However, it is temporary in nature, being removed between October and April (inclusive). That said, it would be present during the tourist season but, as described in the previous section (Visual Impact), occupies a small stretch of the seafront compared to the overall length of the promenade. The simplicity and natural materials of the setting have been responded to in the uncluttered outline and choice of timber cladding. The design aims to minimise the impact on the Conservation Area and wider setting while providing recreational opportunities appropriate to the character of the conservation area.

The impact on the conservation area is considered to constitute a less than significant harm. In accordance with Policies SS10, HE1 and paragraph 202 of the NPPF (2021) the harm is to be weighed against public benefit of the scheme. These were identified in the Principle of Development section of this report as supporting and diversifying and expanding the tourism economy and providing opportunities for healthy physical activities for residents and visitors.

Subject to the full cladding of the cabins prior to the commencement of the next season (1st May 2022) and other recommended conditions of this report it is considered that, in this case, the public benefits outweigh the less than significant harms.

4. Impact on Amenity of the Locality

Policy DE3 requires all development to provide a good level of amenity for users and the surrounding uses in terms of noise, nuisance, and air pollution. They should also

provide storage for containers for waste and recycling. In order to limit the impact of new development, the Council may seek to restrict the hours of operation, time of deliveries, operation of machinery and other measures necessary to preserve amenity.

The proposed hours of operation are: 7am to 8pm every day. The rental of equipment includes paddle-boards but may also include canoes/kayaks. It is considered important to the peaceful quality of the beach that the rental of motorised water-craft is prohibited. This can be secured by condition and is recommended.

The concerns raised by consultation exercise about the catering cabin relate to noise of generators/machines, fumes from food cooking, litter and waste on the beach and obstruction of the promenade. The latter is also mentioned in relation to the paddleboard rentals.

Electricity and water supply

The catering franchise serves hot and cold drinks and cold snacks and grilled paninis (electric grill). Concerns were expressed about the need for generators to produce the power to run the catering machines. The need for generators is avoided by the Torbay Harbours' provision of an electricity supply directly to the cabins.

Use class of catering cabin

The range of food is limited to that which is normally associated with a coffee bar – hot and cold drinks, cold snacks and grilled paninis (electric grill). This falls within Use Class E(a) retail sale of goods (other than hot food). The preparation and sale of hot food take-away falls in a use class of its own (Sui Generis). It is considered that such a use would be inappropriate in this location due to the space requirement and the potential for cooking and food fumes to impact on the amenity of the beach and promenade and for extraction and ventilation equipment to cause noise nuisance and be unsightly. Therefore, it is considered reasonable and necessary to restrict the catering cabin to use class E(a). It is recommended that this is secured by condition.

Water storage

Policy W5 of the Local Plan requires development to demonstrate that the y can be delivered and operated without giving rise to unacceptable impacts on water disposal or have an adverse impact through pollutants or spills on the integrity of the Lyme Bay and Torbay Marie SAC. Concerns were also expressed by the Environmental Health Officer regarding the supply of sufficient water for hand washing and for the catering operation. Torbay Harbours has provided a fresh water supply directly to the cabin. The grey-water tank has a capacity of 1,000lt and is emptied on a regular basis (weekly at present but can be more often as needed). It is positioned between the cabins where it can be managed. The Flood Risk Assessment sets out that the grey-water is collected by the contractor ClearFlo. To secure this arrangement for future months/years, it is considered reasonable and necessary to require that this

element of the FRA is provided to prevent overspill onto the promenade and beach. A condition securing compliance with the FRA is recommended.

Refuse and recycling

With regard to refuse and recycling, the application includes a five-compartment bin store (2 for waste, 3 for recycling). These will require regular emptying. The applicant advises that the bins are to be provided and regular collections made by Biffa. To secure this arrangement for future months/years, it is considered reasonable and necessary to require that an effective collection service is maintained to prevent waste overflow onto the promenade and beach. A condition to this effect is recommended.

Deliveries

Delivery of supplies to the cabin are by delivery lorry from Torbay Road or by electric cycle from their operation in Torbay Marina. The operation is a small-scale one, however, to prevent obstruction and/or inconvenience, it is recommended that hours of delivery by lorry from Torbay Road are controlled. These should avoid times of day when Torbay Road is busiest, when the on-street parking spaces are fully used, and peak use of the beach and promenade. This can be secured by a condition and this is recommended.

Subject to the abovementioned conditions the proposal is considered to be acceptable with regard to the amenities of the beach and promenade further to Policies DE3 and W5 of the Local Plan.

5. Impact on Highway Safety

Policy TA1 and TA2 promote sustainable locations for new developments and require adequate accessibility and safety to meet the needs of the development. The application site is located on Torbay Road, a major bus route within metres of the bus stops (in both directions). Torquay rail station is approximately 600m away. Cycle parking is available at the Riviera Centre and pedestrian crossings provide a link to the beach. For cars, Torquay Road provides metered parking. The promenade is accessed by a flight of stairs to the north and a ramp to the south. Given this positioning, the proposal is considered to be in a sustainable and accessible location. The proposal provides an opportunity for people to go paddleboarding without having to transport their equipment by car.

Policy TA2 requires layouts that contribute to footpath networks. The position on the promenade has been chosen to minimise the impact on pedestrian circulation. The promenade is 6m deep at this point. The cabins and bin store are positioned against the wall at the back of the promenade leaving 3m in front for pedestrian circulation. They are some distance from each access point (ramp and stairs) so do not obstruct the flow of pedestrians on those busiest parts of the route, where people may gather or wait to allow others up and down the stairway/ramp. The storage of the paddleboards is limited to within the cabin and against the wall adjacent to the waste bin store. It is recommended that maintenance of this aspect of the operation is

secured by a condition requiring all storage and operations to be kept within 3m of the sea wall to prevent inconvenience to pedestrians on the promenade.

With regards to queuing for the catering cabin this is a licencing issue rather than a material planning consideration. However, the location is on the widest section of the promenade and there are areas to the side where customers can queue and wait for their orders at high tide. At low tide the steps and firm beach provide an alternative to the promenade for many pedestrians.

Subject to this condition the proposal is considered to be acceptable further to Policies TA1 and TA2 of the Local Plan.

6. Ecology & Biodiversity

Policies SS8 and NC1 of the Local Plan seek to conserve Torbay's biodiversity and geodiversity. Paragraphs 179 to 182 of the National Planning Policy Framework seek to protect and enhance biodiversity. Paragraph 182 sets out that the presumption in favour of sustainable development does not apply where the proposal could affect a protected habitat site unless an appropriate assessment has concluded that the plan or project will not affect the integrity of the habitat site.

The proposal is close to (70m north-west of) the boundary of the Lyme Bay and Torbay Marine Special Area of Conservation. Natural England's conservation objective for this area is to ensure that the integrity of the site's natural habitats are maintained. This area contains offshore reefs and partially/submerged sea caves.

A Habitat Regulations Assessment and a Marine Conservation Zone Impact Assessment was undertaken by Devon County Council's Ecologist. Under Natural England's 'Advice on Operations', paddle boarding is excluded from having recreational impacts on the SAC. This is due to the range of distance the participant can go reducing the impact on any one particular spot. The pre-construction of the cabins and type of catering mean that issues of waste-water, surface water run-off pollution from construction and cooking oil would not arise. The grey-water storage holding tank would be pumped out by a contractor and not lead to increased demand for drainage or foul sewers.

The HRA and MCZ Assessment Report concluded that the likely significant effects on the Lyme Bay and Torbay SAC resulting from increased recreational pressures, increased waterborne pollutants and increased demand on drainage capacity and foul sewer infrastructure can be screened out of further assessment. Therefore, no further assessments are recommended.

Subject to the operation being maintained as set out in the submitted Flood Risk Assessment and in accordance with the conditions suggested in the Amenity section of this report, the proposal is compliant with Policies SS8 and NC1 of the Local Plan and paragraph 182 of the NPPF.

7. Flood Risk and Drainage

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

The application site is within Flood Zones 2 and 3 A Flood Risk Assessment was submitted with the application (Aquatech AT2516 dated May 2021). The proposed uses fall within the categories “water-compatible” (paddleboard hire) and “less vulnerable” (catering). The site is 2.68m above ordnance datum. The FRA includes measures to secure the cabins to the promenade and raise them on feet to allow spring tides to flow underneath. In case of severe-weather-warnings the cabins can be removed to remote storage. The structures are flood resilient steel with fixtures and electrical controls etc no lower than work-top level. The FRA also states that the operator will subscribe to the Environment Agency coastal flood warning system and the site will not operate when there is a risk due to spring high tide. The operator will have a Flood Evacuation Plan. With regards to surface water run-off, the proposal does not increase the footprint of hardsurfacing on the promenade. The Drainage Officer has not objected to the proposal subject to the measures in the FRA being implemented and the season being restricted to 1st May to 31st September.

The cabins are to be removed from the site during the winter when storms and high tides can cause some flooding.

Subject to these conditions the proposal is in accordance with Policies ER1 and ER2 of the Torbay Local Plan.

8. Sustainability

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

The proposal is in a sustainable location where customers do not need to drive to access it. The cabins are constructed of natural materials. Paddleboards and kayaks/canoes are usually made from plastic and their production uses non-natural materials but, being for rental, each craft provides the opportunity for physical activity to several people, requiring less boards/kayaks per user than privately-owned ones.

Paddleboards and kayaks/canoes are powered by a source of renewable energy. The catering cabin provides food to renew that source of energy. The cabin uses electricity to prepare food and drinks – the source of which is from the general grid, which increasingly is supplied from renewable sources.

The proposal is considered to have sufficient low-carbon credentials to meet the requirements of Policies SS14 and ES1.

9. 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.

10. Local Finance Considerations

S106: Not Applicable

CIL: Not Liable

Planning Balance

Paragraph 11 of the NPPF (2021) sets out the presumption in favour of sustainable development that is in accordance with the development plan. The principle of the proposed temporary (5 years to 2026) use is supported by Council Policies relating to expanding and enhancing Torbay's tourism offer as set out in the Local Plan Policy TO1, TO2 and TO3 and to health in the Local Plan Policies SC1, SC2 and the Healthy Torbay Supplementary Planning Document. The development is considered to be a sustainable one, subject to the material planning considerations set out in this report.

The proposal is considered to be acceptable in terms of its visual impact and to cause a less than significant level of harm on the heritage assets of Torre Abbey Scheduled Monument and the Belgravia Conservation Area, subject to the submitted cladding design being installed prior to the next season (1st May 2020).

The public benefits are considered to clearly outweigh the less than significant harms in this case.

Matters of beach amenity, flood risk and biodiversity have been considered and further to Policies of the Local Plan, can be controlled by planning conditions over the seasonal timing, the permitted uses, hours of delivery, storage in cabins and position within 3m of sea wall, adequate water and refuse storage and collections, hours of delivery and compliance with the FRA.

Conclusions and Reasons for Decision

The proposal, as amended, is considered to be acceptable in terms of the principle of the use, its visual impact, impacts on heritage, amenities of beach/promenade users, highways, biodiversity, drainage and carbon impact. Subject to conditions,

the proposed development is, considered to be in accordance with the policies of the NPPF (2021), the Local Plan and the Neighbourhood Plan.

Officer Recommendation

That planning permission be granted, subject to:

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

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

Conditions

1. Temporary Use

The development hereby permitted shall be for a limited period; the structures hereby permitted shall be removed, the use hereby permitted shall be discontinued and the land restored to its former condition on or before 30/10/2025.

Reason: The proposed development is for a limited time period to enable the Local Planning Authority will be able to review the operation of the site and its impacts on the amenity and environment of the surrounding area further to the Local Plan.

2. Seasonal

The cabins and waste bin store hereby permitted shall only be installed and operating on the site between the 1st May and 30th September of each year during the period of this temporary permission. Between 6th October of each year and 24th April of the following year (over winter) the cabins and waste bin store and all associated equipment shall be removed from the site and the land restored to its former condition.

Reason: In the interests of amenity and safety from flood risk during winter months further to Policies DE3 and ER1 of the Local Plan.

3. Materials

The cabins and waste bin hereby permitted shall be clad in the manner and materials hereby approved (Drawing No's EL001A and EL002B). The cladding on the upper part of the South East elevation (facing the sea wall) shall be implemented at the height in relation to the sea wall as shown in the drawings prior to the 1st of May 2022 and thereafter maintained at that level.

Reason: In the interests of the visual appearance of the cabins in the Belgravia Conservation Area further to Policies DE1, and SS10 of the Local Plan and Policy TH8 of the Torquay Neighbourhood Plan.

4. Storage

Storage of rental equipment when it is not in use shall be limited to inside the cabins hereby approved and the 2m wide area between the cabins on the promenade and within 3m of the seawall. No rental equipment shall be stored on the promenade to the south of the paddleboard rental cabin.

Reason: In the interests of the visual amenity of the site and pedestrian convenience further to Policies DE1, DE3 and TA2 of the Local Plan.

5. Catering Cabin use

The cabin hereby permitted for use as a mobile catering concession shall be used for purposes within Use Class E(a) retail only and not for other uses within Class E as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason: in the interests of the amenity of the beach and promenade and to enable control over the impacts of the use of the cabin within the Lyme Bay and Torbay SAC and Belgravia Conservation Area further to Policies DE1, SS10, DE3, SS8 and NC1 of the Local Plan.

6. Rental Cabin Use

The cabin hereby permitted for use within Use Class E(a) for water sports rental shall only be used for rental of non-motorised watercraft including paddleboards, canoes and kayaks. The cabin shall not be used for rental or storage of any motorised watercraft or any equipment not associated with the approved use. The cabin shall not be used for other uses within Class E as defined by the Town and Country Planning (Use Classes) Order 1987 (as amended) or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order.

Reason: in the interests of the amenity of the beach and promenade and to enable control over the impacts of the use of the cabin within the Lyme Bay and Torbay SAC and Belgravia Conservation Area further to Policies DE1, SS10, DE3, SS8 and NC1 of the Local Plan.

7. Remove Permitted Development Rights

Notwithstanding the provisions of Article 3 of the Town and Country Planning (General Permitted Development) (Amendment), (No.2) (England) Order 2015 (as amended) no development of the types described in Schedule 2, Part 3 (Changes of Use) shall be carried out without the prior written consent of the Local Planning Authority.

Reason: In the interests of the amenities of the area. beach and promenade and to enable control over the impacts of the use of the cabin within the Lyme Bay and Torbay SAC and Belgravia Conservation Area further to Policies DE1, SS10, DE3, SS8 and NC1 of the Local Plan.

8. Waste and Recycling Contract

The uses hereby permitted shall be implemented in accordance with the following waste storage and collection plan:

- a) Provision of waste and recycling storage unit in accordance with the approved elevational drawings
- b) Waste and recycling shall be stored in the storage unit and not outside the unit or on the surface of the promenade or the beach
- c) Waste and recycling shall be collected regularly by the contractor as necessary to prevent any overspill onto the promenade and beach

Reason: In the interests of the amenities of the promenade and beach further to Policies DE3 and NC1 of the Torbay Local Plan.

9. Hours of delivery

Delivery of goods to the cabins by hereby permitted shall take place outside the peak hours of beach usage and not between 8am and 6pm on any day.

Reason: In the interests of the convenience and safety of other users of the beach promenade and the footway on Torquay Road further to Policies DE3 and TA2 of the Local Plan.

10. Flood Risk Assessment

The development hereby approved shall be implemented in accordance with the flood mitigation measures identified in the submitted Flood Risk Assessment (Aquatech Ref No AT2516 dated May 2021).

Notwithstanding the approved Flood Risk Assessment, amendments to the mitigation measures shall be submitted by the Local Planning Authority within 4 weeks of the date of this decision which shall include details of footings and means of securing the cabins to the promenade. Once the details are approved by the Local Planning Authority the agreed mitigation measures shall be provided within 2 weeks unless an alternative timetable is agreed in writing with the LPA.

Reason: In the interests of public safety and preservation of water quality in the event of flooding further to Policies ER1 and ER2 of the Local Plan.

11. Water Collection

The uses hereby permitted shall be implemented in accordance with the following grey-water storage and collection plan:

- a) Provision of grey-water storage unit (1,000 litre) capacity in the area between the two cabins
- b) Grey-water shall be collected regularly by the contractor (ClearFlo or similar and to same standard) as necessary to prevent any overspill from the storage unit onto the promenade and/or beach.

Reason: In the interests of the amenities of the promenade and beach further to Policies DE3 and NC1 of the Torbay Local Plan.

Relevant Policies

Torbay Local Plan:

TO1 Tourism, events and culture

TO3 Marine economy

SC1 Healthy Bay

SC2 Sport, leisure and recreation

DE1 Design

SS10 Conservation and the historic environment

HE1 Listed buildings

DE3 Development amenity

TA1 Transport and accessibility

TA2 Development access

SS8 Natural environment

NC1 Biodiversity and geodiversity

ER1 Flood risk

ER2 Water management

SS14 Low carbon development and adaptation to climate change

ES1 Energy

W5 Waste Water Disposal

Torquay Neighbourhood Plan

TH8 – Established Architecture