

TORBAY COUNCIL

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| Application Site Address | Coach Station, Lymington Road, Torquay |
| Proposal | Demolition of existing coach station building, café and toilets and creation of 5 new commercial light industrial units (Use Classes E(g) & E(c). Erection of public toilets, 3 new coach bays and associated public realm (description amended 10.09.2021) |
| Application Number | <u>P/2021/0765</u> |
| Applicant | Torbay Council |
| Agent | MTA Chartered Architects Ltd |
| Date Application Valid | 02.08.2021 |
| Decision Due date | 27.09.2021 |
| Extension of Time Date | 08.11.2021 |
| Recommendation | That Planning Permission is granted, subject to the conditions detailed below and final consultation response from the Environment Agency confirming no objection. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Divisional Director - Planning, Housing & Climate Emergency |
| Reason for Referral to Planning Committee | Application made by Torbay Council |
| Planning Case Officer | Jim Blackwell |

Location Plan



Recommendation

Approval.

Statutory Determination Period

27th September. Extension of time agreed until 8th November 2021.

Site Details

The site is located within the Coach Station, Lymington Road within the Upton area, north of Torquay town centre. It is currently occupied by a large surface area car park dissected by a vehicle route running north south connecting Lymington Road with Upton Road. A roundabout lies to the east which connects Lymington Road, running broadly north to south, with Upton Hill further to the east.

The western side is occupied by angled coach parking and car parking. Beyond the boundary there is an upward change in level with a tree lined landscape strip separating the site from a variety of two and three storey houses on Upton Road.

The eastern portion of the site is occupied by the existing Coach Station toilets, café and office block. This is a single storey structure in two bays with a canopy projecting into the site. Several timber planters and a bank of cycle parking hoops are located around the building.

Further south is the Torbay Innovation Centre, a relatively modern, two storey, flat roof building. The range of buildings is separated from Lymington Road by the footway and line of mature trees. To the south lie further car and coach parking spaces and a collection of public recycling bins at the junction with Upton Road.

A sewer pipe position run north south under the site. South West Water create constraint zones which have informed the proposed buildings positions.

It also lies within:

- Flood Zone 3
- Community Investment Area – Zone 1
- North of the Upton Conservation Area

Description of Development

The application is for the demolition of the existing single storey coach station building, café and toilet block. The replacement buildings and structures include:

- 5 new commercial light industrial units (Use Classes E(g) & E(c)).
- The units will be two storeys orientated at 45° to the site positioned along the east boundary. The northern unit will face broadly north to south.
- Electric vehicle charging points will be provided within each building.
- Cycle storage will be provided within the units.
- A pair of mobility WCs at the entrance to the site to the north.
- A vehicle access route inside the site to service the proposed buildings.
- Pedestrian crossing points at each end of the new route.
- The removal of the existing four coach parking bays and formation of a central island running north south creating three coach parking bays with high quality public realm, shelters and passenger information.

To clarify the proposed use, class E (c) and G (g) include:

E(c) Provision of:

- E(c)(i) Financial services,
- E(c)(ii) Professional services (other than health or medical services), or
- E(c)(iii) Other appropriate services in a commercial, business or service locality.

E(g) Uses which can be carried out in a residential area without detriment to its amenity:

- E(g)(i) Offices to carry out any operational or administrative functions,
- E(g)(ii) Research and development of products or processes,
- E(g)(iii) Industrial processes.

Amendments and additional information submitted during the application include:

- The description of development was altered to refine the proposal and remove the reference to office to reflect the future occupant's light industrial uses.
- Updated Transport Assessment.
- Swept path survey drawing.
- Amended layout to show cycle storage within the units.
- Noise Assessment.
- EMES and CEcoMP.

Pre-Application Enquiry DE/2021/0002 – advice provided by case officer on a variety of issues around the design of the scheme, public realm, access and movement.

Relevant Planning Policy Context

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

Development Plan:

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

Material Considerations:

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

The Planning (Listed Buildings and Conservation Areas) Act 1990 requires that, in considering whether to grant planning permission for development which affects a conservation area or its setting, special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.

Relevant Planning History

- P/2010/0661: Formation of three storey education, training and employment facility to include cafe with training kitchen, workshops, lettable workspace, fitness centre with changing facilities, urban roof garden, WC's and landscaped public realm – approved.
- P/2006/0156: Two Storey Managed Workspace Facilities with parking And Associated Landscaping – approved.

Summary of Representations

Three objections have been received. A summary of the main points of objection are as follows:

- Impact on local area.
- Noise.
- Not in keeping with local area.
- Over development.
- Traffic and access.
- Impact on trees and wildlife.
- Loss of light.

Summary of Consultation Responses

Torquay Neighbourhood Forum:

No response received.

County Archaeologist and Historic Environment Manager:

The HER does not record any known sites that would be impacted on by the development. It does not appear to have any significant archaeological potential. Therefore, I do not have any archaeological recommendations to make.

County Ecologist:

No objection subject to conditions.

Strategic Transport:

Based upon the information submitted at the time of writing, the Highway Authority are unable to provide a positive recommendation for the proposed development. The applicant will be required to submit the following information:

- Provide an analysis of the PIC data when this has been obtained;
- Provide information relating to the likely number of employees and shift changes at the site and demonstrate that the adjacent car park can accommodate the car parking requirements of the site;
- Provide the quantum and location of proposed electric vehicle charging points;
- Demonstrate that three coach loading bays offer sufficient capacity for current and forecast coach usage;
- Demonstrate the safe operation of the coach bays, in particular the potential for conflict between reversing coaches and pedestrians / private vehicles in the car park;
- Consider the implementation of public realm or highway improvements for waiting and disembarking passengers;
- Re-provision of public disabled parking lost through the relocated coach loading bays;
- Re-provision of disabled parking for the Torquay Innovation Centres;
- Demonstrating engagement with and support from coach operators;
- Provide the quantum and location of proposed cycle parking; and
- Undertake a comparative net trip generation assessment utilising the TRICS database.
- The applicant is also required to provide a proportionate Framework Travel Plan for the employment uses to support the application.

Following the submission of amended and updated plans/information comments were set out below:

Based upon the information received at the time of writing, the Local Highway Authority cannot make a recommendation regarding the development proposals at this time. The applicant will be required to submit the following information:

- Identify pedestrian routes through the site to ensure there will be no conflict between pedestrian and vehicle movements;
- Identify on a proposed site plan the location and quantum of cycle parking that will be provided for the proposed development, in accordance with the requirements set out in the Torbay Local Plan (2012 – 2030) Appendix F; and
- Update the Framework Travel Plan to include an existing mode travel share using data from the 2011 Census and to include an Action Plan with feasible measures aimed at effectuating a 30% modal share shift towards sustainable travel.

The applicant responded by providing additional information to resolve the above issues. The Strategic Transport Team responded as follows:

- Pedestrian movements through the site. The applicant has submitted a plan which has identified pedestrian routes through the site (ref. 3486.ENG.TA03). This is considered acceptable.
- Cycle parking. The applicant has stated that the cycle parking standards contained in the Torbay Local Plan (2012 – 2030) Appendix F will be adhered to which will provide one cycle space per two employees for each of the two units. The applicant has stated that cycle parking will be provided, in a secure and covered location, in each of the units. This is considered acceptable.
- Framework travel plan. The applicant has provided an updated Framework Travel Plan which includes a baseline mode share data analysis obtained from the 2011 Census, as well as an Action Plan comprising of feasible measures that can be implemented to achieve a 30% shift towards sustainable travel modes. This is considered acceptable.
- Coach bay capacity. Since the previous Torbay Council Transport Planning response was issued (12th October 2021) consultation has been obtained from the Confederation of Passenger Transport (CPT) who have stated that: “We would oppose any reduction in coach parking/pick up/setting down capacity” (email dated 17/09/2021 and received 13/10/2021).

A further consultation has also since been received from the Torbay Council Spatial Planning team who have stated that: “Please note that both the CPT and I are opposed to any reduction in the number of Coach Bays at this site”

“Please note that Government has recently published the National Bus Strategy, ‘Bus Back Better’.

This strategy applies to England and sets out a vision for improving bus services nationally. The strategy clearly states Protection of Bus Stations from closure and redevelopment and improved and well maintained. The reduction in Coach spaces at this site will go against Torbay Council’s Bus Service Improvement Plan (BSIP)” (email dated 13/10/2021).

It should be noted that, at the time of writing, no response has been received from Bus and Coach operators regarding the proposed development.

Conclusion

The applicant has provided all information required by the Local Highway Authority and this is considered acceptable. However, following consultation now received externally from CPT and the Torbay Council Spatial Planning team, it is considered that the reduction of the coach drop off / pickup spaces from four to three is not acceptable and is therefore not supported by Torbay Council. The proposed development, in its current form, goes against the policies outlined within the Torbay Council Bus Service Improvement Plan (BSIP) as well as the National Bus Back Better Strategy. Considering the information received from CPT and Torbay Council Spatial Planning, the Local Highway Authority recommends refusal for the proposed development.

Fire Safety Officer:

This proposal must comply with Approved Document B of the Building regulations, to include access requirements for the Fire Service vehicles (B5). These include Vehicle Access, including minimum road widths, turning facilities for fire service vehicles and a maximum reversing distance of 20 metres.

In addition, the provision of appropriate water supplies for firefighting (street hydrants) including appropriate flow rates must be complied with. Information on this should be sourced from National guidance document on the provision of water for firefighting (3rd edition; Jan 2007)

Devon and Cornwall Police – Designing out crime officer:

Due to the way in which many industrial developments evolve from inception to completion and the fact that in many instances, the intended occupier and the nature of their business is unknown, even beyond completion, it is not possible to comment in any greater detail than the minimum recommended standards.

With this in mind and the knowledge that commercial units can be vulnerable to burglary, theft and unwanted trespass, it is therefore recommended consideration be given to constructing the units to achieve Secured by Design (SBD) compliance in line with SBD Commercial 2015. Secured by Design (SBD) is a crime prevention initiative managed by Police Crime Prevention Initiatives Ltd (PCPI) on behalf of the UK police services. SBD aims to reduce crime, the fear of crime and opportunities for antisocial behaviour and conflict within developments by applying the attributes of Crime Prevention through Environmental Design, (CPTED), as follows, in conjunction with appropriate physical security measures.

Access and movement: Places with well-defined and well used routes, with spaces and entrances that provide for convenient movement without compromising security

Structure: Places that are structured so that different uses do not cause conflict

Surveillance: Places where all publicly accessible spaces are overlooked; have a purpose and are managed to prevent the creation of problem areas which can attract criminal activity and the antisocial to gather.

Ownership: Places that promote a sense of ownership, respect and territorial responsibility

Physical protection: Places that include necessary, well-designed security features.

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

Management and maintenance: Places that are designed with management and maintenance in mind, to discourage crime and ASB.

In general, the proposed buildings appear to follow a simple design where recesses and concealed areas are minimised, a good design feature in increasing surveillance opportunities.

It is recommended roller shutter doors providing access for deliveries and other apertures where no other door is present must be certificated to a minimum of LPS 1175 Issue 8, Security Rating 3 and any roof light aperture be protected by roof lights certificated to LPS 1175: Issue 8, Security Rating 1 or above. Doors and windows should be to PAS 24:2016 as a minimum.

Whilst it is recommended CCTV be included as part of the initial build process, it should not be seen as a universal solution to security problems. It can help deter vandalism or burglary and assist with the identification of offenders once a crime has been committed, but unless it is monitored continuously and appropriately recorded, CCTV will be of limited value in relation to the personal security of staff and visitors. That being said, the provision and effective use of CCTV fits well within the overall framework of security management and is most effective when it forms part of an overall security plan. It is recommended an appropriate monitored CCTV and alarm system is installed as part of the overall security package for each unit with any lighting for the site compatible with the CCTV system. Care needs to be taken with regard to planting/landscaping, where applicable, so as to not create hiding places, areas of concealment for vehicle interference or impede surveillance opportunities.

External illumination when the buildings are unoccupied is recommended for entrance doors and observable building elevations and be compatible with any CCTV system installed.

Senior Tree and Landscape Officer:

I have reviewed the TPP (21.3279.1.TPP), TAP (21.3279.2.TAP) and AA (21.3279.1.AA).

The documents show that significant root ingress into the site is unlikely based on the trial pits excavated. The excavation points were chosen owing to complications in navigating underground services.

On balance the report findings are likely to be replicated in other areas along the eastern edge of the development. However there still does remain the possibility for root ingress into the area or as indicated access facilitation pruning to manage the canopy of the trees should the proposal extend beyond 6m in height.

Access facilitation pruning may need to be undertaken to ensure the development works can be carried out without damage to the canopy of the trees.

The following are recommended

- Compliance condition for the TPP
- Pre-commencement AMS for the project including (but not exclusive to) protection of trees during demolition, pre-commencement site meeting, supervision throughout the build, signing on of contractors to method statement.
- Access facilitation pruning may need to be undertaken to ensure the development works can be carried out without damage to the canopy of the trees.

Environment Agency:

Whilst we have no in principle objection to the proposed development, we recommend that this application is not determined until such time that clarification is provided regarding the proposed raised pavements. The reason for this position and advice is provided below.

Before you determine the application, your Authority will also need to be content that the flood risk Sequential Test has been satisfied in accordance with the National Planning Policy Framework (NPPF) if you have not done so already. As you will be aware, failure of the Sequential Test is sufficient justification to refuse a planning application.

Reason

Flood Risk

The application site lies partly in Flood Zone 3 and entirely within Flood Zone 2 as identified as areas at High and Medium Risk of flooding respectively. The area is also at risk from surface water flooding as detailed within the submitted flood risk assessment (FRA). The measures outlined within the FRA help safeguard occupants of the proposed building from flood waters, reduce the probability of internal flooding of the proposed buildings, and to provide adequate floodplain compensation. The FRA also outlines the inclusion of voids in the proposed development. We see this provision to be essential in order to avoid a potential increase in flood depth of 77mm, which would affect residential property. Notwithstanding the above, the submitted drawing 3844.P.AL.02 A1 dated 2021 shows potential proposals to create raised pavement areas to create new coach bays. The creation of bays through raising the pavements would occupy flood storage and increase the risk of flooding to residential property in certain circumstances, contrary to National Planning Policy. The applicant should therefore provide further clarity on this matter and it be fully considered within the FRA where required.

Contaminated Land

The site is a former bus depot, which indicates the potential for contaminated land to be present. The application demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however, be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for your authority. If the applicant can provide further information to resolve our concerns relating to the pavements, we advise that we would seek to recommend conditions on any subsequent permission granted relating to a remediation strategy, unsuspected contamination and piling.

Advice –The application proposes ‘New Public Mobility Toilets’ and we wish to highlight that this element of the proposal would be at risk of flooding to a depth of approximately 1m in

1% AEP (including climate change) occurrences, and be at risk of flooding in more frequent floods to possibly dangerous levels. We would strongly recommend that this element be relocated to an area that is safe from the risks posed by flooding.

Overcoming our objection

The applicant should submit further information relating to the proposed raised pavements in the context of flood risk posed to and from the development, and which covers the deficiencies outlined in this letter. Please re-consult us on any revised information submitted.

South West Water:

South West Water has no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy subject to details of surface water drainage being submitted for prior approval.

I further confirm that the proposal to attenuate surface water flows to 1.5 l/s discharging to the combined public sewer network has been agreed with South West Water.

Torbay Council Community Safety Team:

No objection.

Waste Client Manager:

No objection.

Planning Officer Assessment

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

1. Principle of Development
2. Design and Visual Impact
3. Impact on Heritage Assets
4. Impact on Residential Amenity
5. Impact on Highway Safety
6. Designing out Crime
7. Ecology and Biodiversity
8. Drainage and Flood Risk
9. Low Carbon Development

1. Principle of Development

Policy SS11 of the Local Plan notes that within Community Investment Area, proposals that lead to the improvement of social, economic or environmental conditions will be supported in principle.

Similarly, Policy SS5 states that the provision of new employment space will be supported as part of urban renewal projects, but does note that out of centre town centre uses will be considered based on policies TC1-TC4. Such policies states that all town centre uses should follows a town centre first approach.

Policies TC1 states that employment and housing provision, within and near to town centres, particularly within peripheral parts of the designated town centre not covered by primary or secondary shopping frontage.

There are clear economic benefits set out in support of the application. Policy SS1 (Growth strategy for a prosperous Torbay) of the Local Plan supports urban regeneration which creates sustainable living, working and leisure environments, supported by high quality infrastructure.

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

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

One of the key aims of the Torbay Economic Strategy is to create more full time and sustainable employment by encouraging the growth of existing business and the creation of new employment space. In order to achieve this, the right land, buildings and infrastructure need to be in place to support business growth. The Councils Economic Plan, *respond, recover, reposition* sets out a future strategy for Covid 19. There are key objectives around the acceleration of local economic recovery and developing a more resilient economy. The Torquay Town Deal Investment Plan supports town centre regeneration, unlock employment space to help business expansion and support inward investment and through embedding inclusive economy principles to tackle inequality, exclusion and poverty. This proposed development is a key project within the Investment Plan.

The economic benefits are clearly set out within the submitted information and include the following:

- create 38 direct FTE jobs,
- create 7.6 indirect jobs,
- generate approximately £2.5m GVA per year in the local economy,
- create 29.6 construction jobs,
- contribute £7.8m to the local construction sector.

The application also demonstrates wider benefits to the area as the coach station forms a key arrival point into the Bay by sustainable modes. The access route and improvements to the coach bays, with improved public realm and shelters will give a positive first impression to the area. The new mobility WCs will mean this important facility will be retained for public use.

Given that the proposal would create much needed employment facilities at the site; create new jobs; and is expected to generate significant financial contribution to the local economy; improve the positive arrival into the Bay by public transport; it is considered that it complies with the aspirations of Policies SS1, SS4 and SS11 of the Torbay Local Plan.

2. Design and visual impact

Paragraph 126 of the NPPF (2021) states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. In addition, paragraph 130 states that decisions should ensure

developments 'function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development'. It goes on to say that developments should 'optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks'.

Following on from this, Policy DE1 states that proposals will be assessed against their ability to meet design considerations such as whether they adopt high quality architectural detail with a distinctive and sensitive palette of materials and whether they positively enhance the built environment.

Policy TH8 of the Torquay Neighbourhood Plan states that development must be of good quality design, respect the local character in terms of height, scale, and bulk; and reflect the identity of its surroundings.

Policy DE4 states that the height of new buildings should be appropriate to the location, historic character and the setting of the development. New development should be constructed to the prevailing height within the character area in which it is located unless there are sound urban design or socio-economic benefits to justify a deviation from this approach.

The proposed units would be similar at two storeys in height to the Torbay Innovation Centre to the south. In the context of the immediate neighbouring properties and the wider area, it is clear the prevailing building height is varied and is characterised by a variety of building heights located at a range of different ground levels. The proposal is therefore not considered to be contrary to Policy DE4, or harmful to the local character. In any case, it was considered that the proposed building would meet the criteria listed previously in terms of enhancing the vitality of the area, providing socio-economic benefits and contributing to the regeneration of Torbay.

The physical constraints of the site do present several challenges, not least it's prominent position on the junction between Lymington Road and Upton Hill, multiple public frontages and potential to accommodate a range of uses which may change over time. The scheme evolved following the established pre-application process and addressed the issues raised. Lymington Road now has legible points of access, and the proposed windows show activity at the ground floor on each elevation. The design and massing of the buildings now integrate into the existing site and the proposed design responds to the potential user requirements. The proposed use of mono pitched roofs rather than a flat roof, as on the Innovation Centre, would reduce the bulk of the proposed units and echo something of the rhythm created by the terraced properties opposite. The materials would broadly also match, although natural stone cladding is proposed on the ground floor, rather than render. Quality, robust materials have also been included within the proposed public realm, coach bays, shelters and the mobility WCs.

There has been an objection from a neighbouring resident around overdevelopment. However, a previous planning application for a three storey building was approved. Although outside the current Development Plan period it is considered that a site of this size and location has the capabilities of containing units of this scale.

Subject to the use of conditions to secure further quality design detailing, it is considered that the form and layout of the scheme makes effective use of the land and responds well to the constraints of the site. The design enables the creation of strong building frontages which enable active surveillance to increase safety and security. The overall layout and form respond effectively to the site. The proposal is therefore considered acceptable and without

detriment to the character and appearance of the locality or street scene. The proposal is therefore considered to be in accordance with Policy DE1 of the Local Plan, Policy TH8 of the Torquay Neighbourhood Plan and the guidance contained in the NPPF.

3. Impact on heritage assets

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

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

The design, proximity of the site to the Upton Conservation Area and its prominent corner location are key considerations. The scheme is only considered in terms of how it may affect the setting of the Upton Conservation Area which lies to the south of the site. There are no listed buildings near the site. No's 117 – 159 Lymington Road opposite the site are noted as Important building groups, normally of similar date, or character of frontage detail.

The matter is dealt with in the submitted Design and Access Statement. It is considered that, given the distance from the proposal site, that there would be a minimal impact on the setting of the conservation area and the identified terraced building group. The Torbay Innovation Centre and wider open car park have established the urban form with modern buildings with large mature trees to the boundary. The proposed two storey units, separated from Lymington Road by the retained trees are considered acceptable. It is worth noting that the Conservation Area Appraisal references the many individual trees and tree groups which act as an important foil to the buildings, and those which make an important contribution to the street scene in Lymington Road.

The County Archaeologist does not require any archaeological recommendations. The HER does not record any known sites that would be impacted on by the development and it does not appear to have any significant archaeological potential.

The proposal is considered to enhance the setting of the Upton Conservation Area. In accordance with Local Plan Policy SS10 and Policy TH10 of the Torquay Neighbourhood Plan.

4. Impact on Residential Amenity

Policy DE3 of the Local Plan states that development should not unduly impact upon the amenity of neighbouring and surrounding occupiers. Paragraph 174 of the NPPF seeks to prevent new development from being put at unacceptable risk from, or being adversely affected by unacceptable levels of noise pollution.

The proposed units are separated from existing residential dwellings by existing mature trees, the existing car park and Lymington Road. Due to the separation distances involved, along with the scale and design of the proposals, it is considered that there would not be any unacceptable harm to residential amenity in terms of access to natural light, privacy, or outlook.

A Noise Impact Assessment has been submitted with the application which found that the likelihood of adverse impact due to vehicle activity and plant to be low. The end users of the units have not yet been determined. As such, the proposal would result in an intensification of the use of the site, with both day-time and potentially night-time operations, which could result in harm to local and residential amenity in terms of traffic and other noise, along with light nuisance. No objections have been raised by Environmental Health Officers. However, it is considered by Officers to limit the impact upon neighbouring occupiers by including a delivery hours condition to restrict deliveries, and any loading or unloading of vehicles in connection with the units. Conditions are also included to secure a construction method statement and the details of external lighting, to ensure acceptable effects in terms of amenity during the construction phase.

Furthermore, the proposed Class E use has also been controlled by condition to ensure the development remains within this defined use. It is important to note that the final operators can only be carried out in a residential area such as this without detriment to its amenity. This provides a positive level of control to ensure the units will not generate an unacceptable level of harm.

Subject to the use of the aforementioned conditions, the proposal is considered acceptable on amenity grounds and compliant with Policy DE3 of the Torbay Local Plan and relevant guidance within the NPPF.

5. Impact on Highway Safety

Policies TA2 (Development Access) states that all development proposals should make appropriate provision for works and/or contributions to ensure an adequate level of accessibility and safety, and to satisfy the transport needs of the development. Policy TA3 (Parking Requirements) states that the Council will require appropriate provision of car, commercial vehicle and cycle parking spaces in all new development. Greater flexibility on levels of provision has been provided in town centres, where there is more opportunity to make journeys through walking and cycling. Appendix F provides figures on car parking requirements, for hotels this states that 1 space per guestroom plus appropriate provision for coaches is required; in instances where the location of the hotel and its setting may limit the parking available the availability of public spaces will be taken into account.

Policy TH9 of the Torquay Neighbourhood Plan states that new major developments must contribute to better pedestrian/cycle links where possible and encourage modal shift towards active travel. Policies THW1 (Travel Plans), THW5 (Access to Sustainable Transport), THW6 (Cycle Storage and changing facilities), and TTR2 (Sustainable Communities) are also of relevance.

The Strategic Transport Team requested a wide range of additional information which has now been provided by the applicant. The following are now considered acceptable.

- Pedestrian movement.

- Secure cycle parking.
- Travel Plan.
- Disabled parking.
- Electric Vehicle Charging Points.

An objection was received regarding the impact of traffic and access. Given the range of additional information submitted and the acceptability from the Strategic Transport Team it is considered that the scheme would not impact neighbouring residents.

The final issue relates to the reduction of the existing coach parking bays from four to three. The consultation received from the Strategic Transport Team recommends refusal for the proposed development based on this loss. However, when taking the scheme as a whole, including the economic value and quality of the new units, improved public realm, improved coach and pedestrian access and proposed facilities such as new accessible WCs, shelters and new wayfinding board with bus timetables, it provides an overall public benefit. These are all considered important for the future growth of Torbay as a premier tourist destination and on balance Officers are satisfied with the scheme when taken as a whole.

The proposal is therefore considered acceptable and meets the requirements of Policy TA1, TA2 and TA3, TH9 of the Torquay Neighbourhood Plan and the NPPF (2021).

6. Designing out Crime

No objections are raised subject to the use of a condition to secure a scheme of crime prevention measures, such as CCTV. It is recommended that this condition be imposed should planning permission be granted. Subject to the use of this condition, the proposal is in accordance with Policy SS11 of the Local Plan.

7. Ecology and Biodiversity

Policy NC1 seeks to conserve and enhance Torbay's biodiversity and geodiversity, through the protection and improvement of terrestrial and marine environments, and fauna and flora, commensurate to their importance. Policy TE5 of the Torquay Neighbourhood Plan states that, where appropriate, an assessment of impacts upon any existing protected species or habitats should be undertaken, and the use of necessary mitigating arrangements, in order to protect and enhance species and habitats, should be provided. Policy C4 states that development proposals should seek to retain and protect existing hedgerows, trees and natural landscape features.

The Devon County Council Ecologist has no objection. The submitted Ecology Report is considered an appropriate and proportionate assessment on the suitability of the site for protected species. Conditions have been included to ensure that no works take place unless a suitably qualified ecologist is present on site and details of numbers, location and design of biodiversity enhancement features including bat boxes, bird boxes and bee bricks are provided in a CEMP and submitted prior to construction works commencing.

The Senior Tree and landscape Officer has no objection subject to conditions to secure a scheme of tree protection. There has been an objection on the potential impact on the existing trees. However, given the trees to be retained, the positive comments from the Senior Tree and Landscape Officer and the suggested condition ensuring the trees are protected, the scheme is considered acceptable.

Subject to the addition of suitable conditions the proposal is therefore deemed to comply with Policies NC1 and C4 of the Local Plan, Policy TE5 of the Torquay Neighbourhood Plan and the NPPF (2021).

8. Drainage and Flood Risk

National guidance contained within the NPPF (2021) cites that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere (Para 166).

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, which is aligned with guidance contained within the NPPF. In regard to foul waters Policy ER2 of the Local Plan includes reference that development proposals should provide appropriate sewage disposal systems with separate foul and surface water, which seek to use sustainable measures and reduce water being discharged into shared sewers.

The application site lies partly in Flood Zone 3 and entirely within Flood Zone 2 as identified as areas at High and Medium Risk of flooding respectively. It is also within a Critical Drainage Area as designated by the Environment Agency. As such, a sequential test is required as set out in section 161 of the NPPF; its aim is to steer new development to areas at low risk of flooding. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.

In this instance the site is already developed, previously used as a coach station and car park. These uses and the proposed industrial use with coach parking fall within the same flood risk category of 'less vulnerable'. The site is currently vacant and attracts antisocial behaviour; its redevelopment is in the public interest and the same development on an alternative site outside of the flood zone would not provide these benefits. The development therefore passes the sequential test.

It is necessary then to consider the exception test; it is concluded that the development provides wider sustainability benefits to the community that outweigh the flood risk through the provision of employment, visual and physical improvements to the site and the enhancement of public transport infrastructure. It is also concluded that the development will be safe for its lifetime taking into account the vulnerability of its users and without increasing flood risk elsewhere.

The Environment Agency have no objection in principle to the proposed development but required further information on the site levels. This information has been provided and the Environment Agency consulted. In order to reflect this a further condition has been included to update the Flood Risk Assessment. This will be reported verbally to Members at Planning Committee.

As the site is a former bus depot it indicates the potential for contaminated land to be present. The submitted information demonstrates that it will be possible to manage the risks posed to controlled waters by this development. The Environment Agency has requested a condition requiring a remediation strategy, unsuspected contamination and piling. This has also been included as a condition. Finally, the new accessible WCs were considered to be at risk of flooding to a depth of approximately 1m in 1% AEP (including climate change) occurrences, and be at risk of flooding in more frequent floods to possibly dangerous levels. Given the constraints of the site and the potential use of the WCs during these conditions they have been retained as originally proposed.

South West Water also has no objection subject to the foul and surface water being managed in accordance with the submitted drainage strategy subject to details of surface water drainage being submitted for prior approval.

Subject to no objection from the Environment Agency and the conditions discussed above the proposal is therefore considered to be in accordance with Policies ER1 and ER2 of the Local Plan.

9. Low Carbon Development

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

The effects on the environment and sustainability have been considered as an integral part of this scheme. Replacing buildings have significant energy, carbon and financial cost implications. However, given the age, condition and usability of the existing building it is accepted that it cannot be adapted or retained.

The application is supported by a Sustainability Statement which highlights the following considerations:

- The site is supported by public transport and is accessible from the town centre. Lymington Road is considered a primary public transport route into Torquay and is served by Stagecoach bus numbers 12, 22 and 31.
- Secure cycle storage will be provided within the units.
- The palette of materials has been chosen on their sustainability credentials on sourcing, reusability and recycling.
- New users will be responsible for the final fit out of the units based on their needs. A range of technologies will be available for heating, lighting and power.
- The units will have high levels of insulation.
- The units are oriented with glazed elements facing east-west maximising natural light and reliance on electric lighting. Each roof is pitched towards the south to maximise natural heat gain though with the vaulted space beneath the highest part to allow heat to rise above the normal working height at the mezzanine level and provide greater comfort.

This design approach to the site is therefore in accordance with Local Plan Policies SS3 and ES1.

Local Finance Considerations

Community Infrastructure Levy

The site is situated in Charging Zone 2 in the Council's CIL Charging Schedule and as such there is no charge.

EIA/HRA

EIA

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

HRA

In view of the nature of the application there is not likely to be a Significant Effect on the Annex I habitats - alone or in-combination with other proposals or projects.

Planning Balance

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

Statement on Human Rights and Equalities Issues

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

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

Proactive Working

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

Conclusions and Reasons for Decision

The proposal is acceptable in principle as it would have a positive impact on the character of the area, the setting of the Conservation Area and local amenity; would provide acceptable arrangement in relation to residential amenity, highways and flood risk. Furthermore, when taking the scheme as a whole, including the economic value and quality of the new units, improved public realm, improved coach and pedestrian access and proposed facilities such as new accessible WCs, shelters and new wayfinding board with bus timetables, it provides an overall public benefit outweighing the loss of a single coach parking bay. The proposed development is considered acceptable, having regard to the Torbay Local Plan, the Torquay Neighbourhood Plan, and all other material considerations.

The proposals are in accordance with the provisions of the Development Plan. The Officer recommendation is therefore one of conditional approval.

Officer Recommendation

Approval subject to the following conditions:

Conditions

Class E consent:

The industrial units hereby approved shall be used only for purposes falling within Use Class E (c) and (g) of The Town and Country Planning (Use Classes) Order, 1987 (as amended) or in any provisions equivalent to those Classes in any Statutory Instrument revoking and re-enacting that Order and for no other purpose without the prior grant of planning permission.

Reason: To ensure that the development is compatible with surrounding uses. In order to accord with Policies TC2, TC3 and TC4 of the Torbay Local Plan 2012-2030.

Land affected by contamination - Submission of Remediation Scheme:

No development shall take place until a detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment has been prepared, submitted to and been approved in writing by the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Reason: To ensure that risks from land contamination is understood prior to works on site both during the construction phase to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

This condition needs to be a pre-commencement condition to ensure the impacts of the development are mitigated from the beginning of the development.

Land affected by contamination - Implementation of Approved Remediation Scheme:

In the event that contamination is found, no development other than that required to be carried out as part of an approved scheme of remediation shall take place until the approved remediation scheme has been carried out in accordance with its terms. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and be approved in writing of the Local Planning Authority.

Reason: To ensure that risks from land contamination both during the construction phase and to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

This condition needs to be a pre-commencement condition to ensure the impacts of the development are mitigated from the beginning of the development.

Flood Risk Assessment:

The development shall proceed in full accordance with the submitted and approved Flood Risk Assessment. The use shall thereafter be operated in accordance with the approved details.

Reason: In the interests of managing flood risk to occupiers in accordance with the National Planning Policy Framework, and to comply with Policies ER1 and ER2 of the Adopted Torbay Local Plan 2012-2030.

Surface Water Drainage Scheme:

Prior to the first use of the development the submitted and approved surface water drainage system shall have been implemented in full. The drainage scheme shall be fully implemented prior to the first use of the development and the drainage system shall then be maintained at all times thereafter to serve the development.

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

Construction/Demolition Management Plan

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

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

Reason: To safeguard the Local Planning Authority's rights of control over these details to ensure that the construction works are carried out in an appropriate manner to minimise the impact on the amenity of neighbouring uses and in the interests of the convenience of highway users, having regard to Policies NC1 and TA1 Torbay Local Plan 2012-2030.

This condition needs to be a pre-commencement condition to ensure the impacts of the development are mitigated from the beginning of the development.

Ecology Mitigation Measures:

The development shall proceed in full accordance with the submitted and approved Ecological Mitigation and Enhancement Strategy (EMES) and combined Construction and Ecological Management Plan (CEcoMP) by Ecology Services SW – September 2021).

Reason: In order to protect ecology and to secure necessary mitigation to accord with the aims for biodiversity enhancements, in accordance with Policies NC1 and SS8 of the Torbay Local Plan 2012-2030 and guidance contained in the NPPF.

Ecological Mitigation Measures:

Prior to the first use of the development hereby approved, the following shall be incorporated into the development (in accordance with manufacturer's instructions for correct siting and installation) and retained at all times thereafter:

- The provision of integrated habitat by design for swifts (*Apus apus*), in the form of nesting bricks built within the outer wall brickwork or fabric of the buildings. Two bricks to be incorporated per unit build.
- The inclusion of bee bricks within the upper story outer walls of the buildings. Two bricks to be incorporated per unit build.
- The inclusion of bat bricks/tubes. Two bricks to be incorporated per unit build.

Reason: To ensure that the development duly considers protected species and biodiversity, in accordance with Policy NC1 of the Torbay Local Plan 2012-2030.

Landscaping scheme:

Prior to the first occupation of the development hereby permitted full details of all proposed soft and hard landscaping shall have been submitted to and approved in writing by the Local Planning Authority. All approved hard landscaping shall be implemented in full prior to the first use, all soft landscaping shall be carried out in the first planting and seeding season following the occupation of the development.

Reason: In the interests of visual character of the area in accordance with Policies DE1 and C4 of the Torbay Local Plan 2012-2030.

This condition needs to be a pre-commencement condition to ensure the impacts of the development are mitigated from the beginning of the development.

Detailed design:

Prior to installation details of all external materials shall be submitted to and approved in writing by the Local Planning Authority including, but not limited to:

1. A sample of the proposed stone,
2. Window and door materials, colours and profiles,
3. The wayfinding and coach information sign board,
4. Coach station shelters.

The development shall proceed in full accordance with the approved detail and shall be retained as such for the lifetime of the development.

Reason: In order to protect visual character and heritage assets in accordance with Policies DE1, SS10 and DE4 of the Torbay Local Plan 2012-2030, Policy TH8 of the Torquay Neighbourhood Plan and advice contained within the NPPF.

External Lighting:

Prior to the first use of the development hereby approved, details of a lighting strategy relating to the illumination of the building, public realm and associated areas shall be submitted to and approved in writing by the Local Planning Authority. The submitted lighting strategy shall give particular consideration to preventing light intrusion at neighbouring properties, and in relation to bat habitats and flyways. The development shall thereafter be undertaken in accordance with the approved details and shall be retained as such indefinitely.

Reason: In order to protect visual character in accordance with Policies C2, DE1, HE1, SS10 and DE1 of the Torbay Local Plan 2012-2030, Policy TH8 of Torquay Neighbourhood Plan and advice contained within the NPPF.

Designing Out Crime:

Prior to the first use of the development hereby approved, a scheme of measures for designing-out crime shall be submitted to and approved in writing by the Local Planning Authority. The approved measures shall be fully installed prior to the first use of the development and shall be permanently retained thereafter.

Reason: In the interests of amenity and preventing opportunities for criminal activity, in accordance with Policies DE1 and DE3 of the Adopted Torbay Local Plan 2012-2030.

Bicycle Storage:

Prior to the first occupation of the development hereby permitted, the bicycle storage shown on the approved plans (plan reference 3844.P.AL.02 rev A received 11 October 2021) shall be provided. Once provided, the agreed bicycle storage shall be retained for the life of the development.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Adopted Torbay Local Plan 2012-2030.

Hours of delivery:

No deliveries shall be taken at or dispatched from the site outside the following times: 08:00 Hours and 18:00 Hours on Mondays to Fridays and 08:00 and 13:00 Hours on Saturdays and at no time on Sundays and Bank Holidays.

Reason:

To satisfactorily protect the residential amenities of nearby occupiers to comply with policy DE3 of the Torbay Local Plan.

Additional paraphernalia:

No equipment, signage or plant shall be located on the roof, walls or in the grounds of the development hereby permitted (other than those indicated on the approved plans) unless otherwise approved in writing by the Local Planning Authority, including air conditioning units, extraction equipment, aerials, tanks, satellite dishes and external lighting.

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

Removal of permitted development – extensions:

Notwithstanding the provisions of Article 3, Schedule 2, Part 7, Class H and Class J, of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended), or any Order amending or revoking that Order, no extensions or alterations, including additional hard standings, shall be made to the building hereby approved.

Reason: To maintain an acceptable form of development in accordance with Policies DE1, DE3, TA3 and ER1 of the Torbay Local Plan 2012-2030, the Torquay Neighbourhood Plan, and the NPPF.

Coach parking bays:

Prior to the first occupation of the development hereby permitted, the coach parking bays and shelters shown on the approved plans shall be provided. Once provided, the agreed bays shall be retained for the life of the development and made available for use for coach parking.

Reason: In the interests of sustainable transport and in accordance with Policies TA1, TA2, and TA3 of the Torbay Local Plan 2012-2030.

Informative(s)

1. For the avoidance of doubt, any works to be undertaken within the public highway will require the separate consent of the Highway Authority.
2. In accordance with the requirements of Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order, 2015, in determining this application, Torbay Council has worked positively with the applicant to ensure that all relevant planning concerns have been appropriately resolved. The Council has concluded that this application is acceptable for planning approval.
3. Responsibilities of the applicant / developer:
All bats are protected by law. If bats are found, works must immediately cease and further advice be obtained from Natural England and / or a licensed bat consultant. Works must not resume until their advice has been followed. Nesting birds are also protected by law. During site clearance and construction works, suitable safeguards must be put in place to prevent threat of harm to legally protected species, including nesting birds and reptiles all of which are protected under the Wildlife & Countryside Act 1981 (as amended). Where works are to involve cutting or clearance of shrubs, hedges or other vegetation, which can form nesting sites for birds, such operations should be carried out at a time other than in the bird breeding

season (which lasts between 1 March - 15 September inclusive in any year). Schemes must be in place to avoid threat of killing or injuring reptiles, such as slow worms. Slow worms may shelter beneath vegetation as well as among any stored or discarded sheeting, building and other materials. Further details can be obtained from a suitably qualified and experienced ecological consultant, or please refer to published Natural England guidelines for protected species.

Relevant Policies

Local Plan

DE1 – Design.

DE3 – Development Amenity.

ES1 - Energy

TA2 – Development Access.

TA3 – Parking Requirements.

ER1 – Flood Risk.

ER2 – Water Management.

NC1 – Biodiversity and Geodiversity.

SS3 – Presumption in favour of Sustainable Development.

SS4 – The Economy and Employment.

SS10 – Conservation and the Historic Environment.

SS11 – Sustainable Communities.

SS14 - Low carbon development and adaptation to climate change

C4 – Trees, hedgerows and natural landscape features.

Torquay Neighbourhood Plan

TH8 – Established Architecture.

TH9 – Parking Facilities.

THW5 – Access to sustainable transport.

TE5 – Protected species habitats and biodiversity.

TH10 – Protection of the Historic Built Environment.

TS1 – Sustainable Development.

TS4 – Support for Brownfield and Greenfield development.