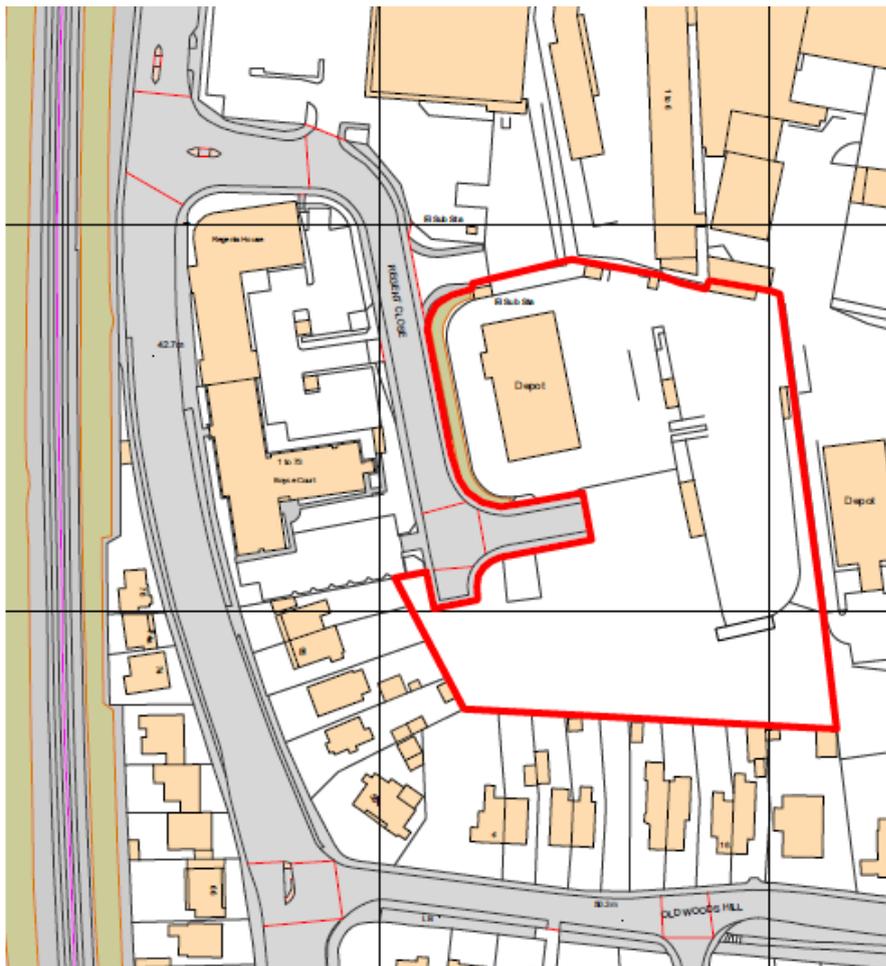


# TORBAY COUNCIL

Application Site Address	Stagecoach Devon Ltd., Regent Close, Torquay, TQ2 7AN
Proposal	Formation of new access road for bus depot & associated works.
Application Number	P/2021/0692
Applicant	Stagecoach UK
Agent	Fearnley Lott Architects
Date Application Valid	07/06/21
Decision Due date	02/08/21
Extension of Time Date	02/08/22
Recommendation	Approval: Subject to planning conditions as outlined within the report, with the final drafting of conditions delegated to the Divisional Director of Planning, Housing & Climate Emergency.
Reason for Referral to Planning Committee	Ward Councillors have asked for the application to be determined at Committee in light of neighbour objections
Planning Case Officer	Sean Davies

## Location Plan



Site Location Plan @ 1:1250

### **Site Details**

The site at Stagecoach Devon Ltd, Regent Close, Torquay, TQ2 7AN is a bus depot and its curtilage, which includes an area of woodland between the depot and houses along Netwon Road and Old Woods Hill. The site forms part of the built up area, but is not otherwise subject to any designations within the Torbay Local Plan.

For the avoidance of doubt, the site is not covered by any environmental designations. Part of the woodland is covered by Tree Preservation Order (TPO).

### **Description of Development**

Formation of new access road for bus depot & associated works.

The proposals are for a 7m wide access road that would run from the existing hammerhead at the end of Regent Close to the top yard of the existing Stagecoach depot site. This would allow buses to enter via the existing site entrance and exist via the new proposed road. At present buses have to drive in and drive out the same way which necessarily involves reversing in what is a constrained site.

The proposals would also include 18 staff parking spaces. Spaces 1-9 would be accessed from the section of Regent Close providing access to the site. Spaces 10-18 would be positioned along the side of the new road furthest away from the houses on Newton Road and Old Woods Hill.

The afore mentioned parking spaces are needed to compensate for the loss of parking at the end of Regent Close where the proposed road would come out (i.e. not to cater for any new development within the site or any increase in staff numbers). The applicant has agreed to make a payment of £5,000 so that double yellow lines can be installed along a part of Regent Close so that cars do not park so as to obstruct buses leaving the site.

The existing woodland located between the Stagecoach depot and houses along Newton Road and Old Woods Hill (including the part covered by the TPO) would be left largely intact, with new trees to be planted in mitigation for those to be removed.

The existing depot operates from 04:00 to 01:00. The hours of operation would not change.

### **Pre-Application Enquiry**

The Local Planning Authority has provided informal positive feedback to the applicant at pre-application stage in relation to the current proposal.

### **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

#### Material Considerations

- National Planning Policy Framework (NPPF)

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

### **Relevant Planning History**

DE/2020/0149 Construction of access road to southern side of depot. PRE-APPLICATION ENQUIRY

AT/2020/0021 There is a row of 45 leylandii (*Cupressus x leylandii*) marked on map T1. This row of leylandii is growing down one side of a native woodland. I think all of the trees were planted at the same time in 1971. It is hard to define whether the row of leylandii trees is within the TPO area. The leylandii trees are shading the native trees next to them. The trees next to the leylandii have a lot of deadwood and a couple of hawthorns have already died due to lack of light. They are also starting to shed large limbs and are becoming dangerous to walk underneath. I would like to dismantle to ground level all 45 of the leylandii trees. This is to improve safety in the woodland for pedestrians. It will also improve light conditions for the native species to thrive adjacent. The row of leylandii are providing good screening for the houses bordering the depot so to maintain this privacy I would like to re-plant another one alongside the boundary as shown on map H1. TREE NOT PROTECTED

AT/2018/0328 T1- oak – fell due to the poor condition of tree. 2/3rds of the canopy is dead wood and is overhanging the staffroom porter cabin - APPROVED

P/1997/0251 Erection Of Extension To Existing Workshop (As Revised By Plans Received 15/4/97) REFUSED

P/1996/410 Erection Of Extension To Existing Workshop REUSED/DISMISSED AT APPEAL

P/1996/1409 Extension Of Parking Area REFUSED/DISMISSED AT APPEAL

(Note – Council records indicate that 19 applications have been made at the site. Most of these are not relevant to the proposals. The two applications listed above from 1996/7 have been included as they appear to be the ones referenced in objections summarised below)

### **Summary of Representations**

Approximately 17 representations have been received with two in support and 15 objections:

#### **Objections**

Petition with 25 signatures:

- Proposals similar to those refused on appeal 10/10/97. Existing trees/shrubs provide valuable buffer between site and houses. Two oaks are covered by TPOs. Area is haven for wildlife including bats and birds. Removal of trees is contrary to Government targets for tree planting. Bus site is essentially a 24 hour operation. The proposed new access and parking closer to houses would result in increased air pollution from exhaust fumes and noise (vehicles and staff). The proposals would also result in light pollution from headlights (buses and cars) and any lighting for the proposed road or parking or security lighting.

#### Site history

- Stagecoach has applied for a new access road twice before on this site and these applications have been refused

#### Local area

- Stagecoach has outgrown the site and should move to another site
- Out of character with local area
- Overdevelopment

#### Traffic

- Unspecified concern about traffic and access

#### Wildlife:

- Impact on wildlife (birds, bats, foxes, insects etc.)
- Concern about independence of environmental report (i.e. as Stagecoach paid for it)

#### Trees:

- Loss of trees;
- any replacement trees will take decades to grow to comparable size;
- trees to replace line of fir trees to be removed would be deciduous and so wouldn't provide screening during Winter
- trees have already been removed to allow development to be constructed
- Concern about independence of an arboreal report (i.e. as Stagecoach paid for it)

#### Neighbour amenity:

- Increase in noise pollution (affecting ability to sleep), air pollution (i.e from vehicle fumes), light pollution (headlights/any new lighting), smells, vibration, for 20 hours a day, 7 days a week, as proposed road would be 25m closer to houses on Old Woods Hill and closer still to properties on corner of Newton Road. Residents wouldn't be able to enjoy back gardens. Proposals would be overbearing and visually intrusive
- Land that access road would be sited on was previously designated as a 'green belt' buffer between residential and commercial land and should stay that way
- Stagecoach has previously parked buses and sited portacabins on the land the access road would be sited on and has dumped building rubble into it causing problems for neighbours.

#### Subsidence:

- Risk of subsidence to properties along Old Wood Hill

#### Security:

- Increased risk of crime as Stagecoach does not have adequate security arrangements in place
- Loss of trees would increase security risk

#### Archaeology

- an archaeological survey has not been carried out.

#### Non Planning Issues

- Breach of restrictive covenants
- Decrease in property prices

(Restrictive covenants and the effect of the proposals on property prices are not planning issues and cannot be considered in determining the application. These issues are not considered further in this report).

#### **Support**

- Retains jobs

- Access road will facilitate smoother run in and run out of buses, eliminating cumbersome reversing movements and reducing associated beeping and engine revving.
- Proposals will lead to a better balance of on road parking areas for residents and workers around Boyce Court near to site
- Proposals create additional space which could lead to electrification of bus fleet sooner than might otherwise occur, reducing noise and pollution
- Some clearing of dead and diseased trees will benefit overall health of remaining preserved trees

Response from Stagecoach Devon Ltd

“ ...

**NOISE:** ... designs associated with the applications facilitate an operation where there are less reversing manoeuvres and this will mean less beeping and revving of engines. The application is also designed to facilitate future electrification of the Torbay bus fleet, which may not be possible should this application be unsuccessful. Electric buses make practically no noise at all and so longer term our operation will be far quieter.

**POLLUTION:** With the reduced need for complicated manoeuvres within the depot, there is less need for revving of engines and so pollution will reduce. With the longer term electrification of the fleet, made possible by the planning application, pollution is reduced substantially.

**WOODLAND PRESERVATION:** At present, there are a selection of trees that have been identified for preservation and also a number of dead and diseased trees that require attention. There are also some non-indigenous species that hinder the development of other trees and shrubs. There is the opportunity to better manage the woodland by removing dead trees and replacing with indigenous species.

**BOUNDARY MANAGEMENT:** Along the boundary, there is a line of non-indigenous pine trees that are of excessive height. These can result in unnecessary shadow on bordering properties and they inhibit the growth of indigenous species in the vicinity. Their height could be problematic and the opportunity exists with this scheme to replace them with indigenous trees that provide a better shield from the neighbours and do not grow so excessively high.

**LOCAL PLAN:** From what I can see, the proposals fit squarely with the local plan. Investment in this site will secure the 200 jobs currently on the site and keep those jobs for years to come whilst the environment of the site will be improved and noise mitigated for the neighbouring properties. Furthermore, the plans will facilitate a move to a more environmentally sustainable means of powering the bus fleet, which will be good for the whole of Torbay.

...”

**Police:** “Police have no objections to the proposal. From a crime and anti-social reduction perspective, if not already in place, lockable gates or barriers should be included at the entrance and exit points. It is also recommended the indicated staff parking sites be covered by CCTV and compatible lighting”.

**Torbay Strategic Planning:** “This site is very important in the operation of the Torbay bus network. The site does however require more space to support the vehicles needed for the local bus network and supporting the implementation of zero emission buses with charging facilities in the near future. The Council has been working with Stagecoach on proposals to bring forward zero emission buses based at this depot and we are keen to support this

happening, having submitted a bid for funding to Government and including proposals in our Bus Service Improvement Plan. The site is well located to support this infrastructure with appropriate power supplies nearby and the business case relies on this provision being nearby. Our Bus Service Improvement Plan also sets out proposals to increase bus use across Torbay and a well placed depot facility with the space to safely facilitate sufficient vehicles for that operation is critical. This proposal, in my opinion, therefore supports:

- the Community and Corporate Plan by supporting the bus network locally, having benefits to Thriving People, Thriving Economy, and Tackling the Climate Emergency;
- the Local Plan strategic policies by supporting investment in the Strategic Delivery Area for Torquay Gateway (SS1); though the support for an existing employment use (SS4 and SS5), by supporting the public transport network (SS6), and future proofing for a contribution to a carbon neutral Torbay (SS14);
- the Torquay Neighbourhood Plan by supporting the objective for the “The Gateway to Torquay” through the preservation of employment, making best use of brownfield land, and supporting the retention and improvement of employment space; and
- the Local Transport Plan by supporting the overall vision to make best use the transport network and protecting the transport assets, and by supporting a strengthening and improvement of the public transport network as well as enabling the key priorities for Torbay”.

**Torbay Highways:** No objection subject to conditions and contributions towards Traiff Regulation Order.

**Torbay Community Safety:** “Having reviewed both reports I would concur with their findings and in terms of the noise report the recommendation that an acoustic 2.5m high barrier is erected along the southern edge of the site to protect residents. . As such I would confirm that I have no objections to this development provided the recommendations are put in place by the applicant prior to commencement of use. Should you have any further queries then please let me know.”

**Devon County Council Ecology:** “It appears the site offers limited ecological value, given its isolation from other habitats and its location within an urban area. I believe the Ecology Report submitted with the application is adequate and acceptable in terms of its conclusions and recommendations. It is noted that there will be a reduction in trees onsite in order to facilitate the development - however the removal of cherry laurel and leylandii would also add some benefit to the retained areas of woodland. One minor comment is that it does not appear that the location of the 14 trees to be planted or the tree mounted bat and bird boxes (as stated in Section 6 of the EclA) are provided on a plan. As long as the recommendations of the EclA are conditioned, it is unlikely the scheme will have major impacts upon biodiversity”.

**Torbay Arboriculture:** “The site is sustainable from an arboricultural perspective. The Leyland cypress (G5) are prominent in the landscape and do provide a screen however their long term retention beyond 20years is not sustainable and have been correctly categorised as C. There will be a significant impact on the immediate properties to the south when removed as the trees currently provide a visual screen and, to some extent, noise and pollution abatement. The remainder of the proposed tree removals are justified wither by their condition or with mitigation planting/landscaping to be used. The removals provide an opportunity to enhance the tree stock in the area with younger stock providing for a greater diversity and resilience in the long term. The tree replacements identify 14 trees to be planted. Although it is outlined where they are to be placed hence a tree planting plan with associated wording would be required including a commitment to replacement any dead/dying trees and maintenance programme for 5 years. A compliance condition should be used for the submitted method statement”.

**Torquay Neighbourhood Forum:** no response.

### **Key Issues/Material Considerations**

1. Principle of Development
2. Growth Strategy for a prosperous Torbay
3. Employment
4. Strategic Transport Improvements
5. Heritage and archaeology
6. Design
7. Neighbour amenity
8. Access & Parking
9. Climate Change
10. Ecology
11. Arboriculture
12. Flood risk
13. Ground stability

#### **1. Principle of Development**

The proposal seeks permission for Formation of new access road for bus depot & associated works. There are no Local Plan policies indicating that the proposal is not acceptable in principle.

#### **2. Growth Strategy for a prosperous Torbay**

Policy SS1 of the Local Plan sets out that The Local Plan promotes a step change in Torbay's economic performance. It supports urban regeneration that creates sustainable living, working and leisure environments, supported by high quality infrastructure. Further that Strategic Development Areas are the foci for delivery of growth and change in the Bay over the Plan period. They provide strategic and sustainable locations for new employment space, homes and infrastructure.

The consultee response from Torbay's Strategic Planning team supports the proposals and identifies that the proposals support Policy SS1 *"by supporting investment in the Strategic Delivery Area for Torquay Gateway"*

Officers therefore consider that the proposals are in accordance with Policy SS1.

#### **3. Employment**

Policy SS4 of the Local Plan (The economy and employment) states that The Local Plan 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 and supports existing businesses. Policy SS5 (Employment Space) of the Local Plan sets out that in order to meet the needs of existing, growing and new businesses, sufficient high quality space will be provided to meet existing and arising requirements of employers.

The consultee response from Torbay's Strategic Planning team identifies that the proposals would be consistent with Policies SS4 and SS5 *"though the support for an existing employment use"*.

The representation in support of the proposals made by Stagecoach Devon states that *"Investment in this site will secure the 200 jobs currently on the site and keep those jobs for years to come"*

Officers therefore consider that the proposals are in accordance with Policies SS4 and SS5.

#### **4. Strategic Transport Improvements**

Policy SS6 of the Local Plan states that The Council will support improvements to the strategic transport system that enhance the connections between the three towns, between Torbay and the rest of the sub-region and that improvements proposed include improvements to the bus and public transport networks to service new development and ensure connectivity within and between town centres, district and local centres.

The consultee response from Torbay's Strategic Planning team identifies that the proposals are consistent with Policy SS6 by supporting the transport network.

Officers therefore consider that the proposals are in accordance with Policy SS6.

#### **5. Heritage and archaeology**

Policy SS10 of the Local Plan states that development proposals will be assessed against the need to sustain and enhance all designated and undesignated heritage assets, including archaeological remains.

An objection has been made that the proposals have not been accompanied by an archaeological survey.

Officers have considered this point but as there is no known archaeological significance associated with the site and the proposed works themselves are comparatively minor in nature officers do not consider that it would be necessary or proportionate to require a survey to be carried out.

Officers therefore consider that the proposals are in accordance with Policy SS10.

#### **6. Design**

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

Notwithstanding the objections that have been made officers consider that the proposals are in keeping with the character of the local area, which is largely commercial in nature.

Likewise, officers have considered the objections made in relation to security but do not consider that site security is a significant issue in this case. The Police have not objected to the proposals and have provided advice about security. Officers do not consider that the proposals would lead to any significant new security issues.

Objections have also been made that the loss of trees would result in a loss of visual screening to the Stagecoach depot and that the proposed road would be 25m closer to the backs of houses along Old Woods Hill and closer still to houses along Newton Road. Also, that the proposals, through loss of trees would increase security risks as there is no site security fencing.

The proposed road would run along the backs of five houses on Newton Road and nine houses on Old Woods Hill.

It would be closest to Nos. 63, 65 and 67 Newton Road, where it would be approximately 6-7m behind the back gardens and approximately 26m from the backs of these houses. The

road would be approximately 13m away from the back garden of no. 61 and 36m away from the back of that house and approximately 40m from the back of no. 59.

It would, at its closest point be approximately 13-15m from the back gardens of houses along Old Woods Hill (Nos. 14, 16 and 18) and approximately 25-30m from the backs of those house. The road would be around 17-18m or more away from the back gardens of nos. 4, 6, 8, 10 and 12 and in the region of 30m or more from the backs of those houses. It would be around 20m from the back garden of no. 20 and approximately 40m from the back of that house.

No deciduous trees would be removed from the existing woodland immediately behind the backs of the houses. Those trees to be removed would be situated along the line of the proposed road itself. As such the existing visual screening to the Stagecoach site is unlikely to be substantially affected through the loss of deciduous trees. It should be noted in this respect that the back gardens of houses along Newton Road/Old Woods Hill already have rear fences or walls of some description.

The greatest visual impact associated with the proposals appears likely to be loss of a row of Leylandii trees running from the existing hammerhead (behind no. 65 Newton Road) to the patch of woodland behind no. 10 Old Woods Hill. The loss of these trees is considered likely to make the Stagecoach depot site more visible from rear facing first floor windows of these properties and will inevitably make buses using the proposed road more visible than if they could be kept in place.

Balanced against this, it should be noted the applicant applied to the Council to remove all 45 of these trees in 2020 (AT/2020/0021) and to check that they were not protected. The Council confirmed that these trees are not protected at the time and, as such, planning permission is not needed to fell them. In other words, the applicant is free to fell them whether or not planning permission for the current proposals is granted. It should also be noted that the Arboriculture Impact Assessment, which has been reviewed by the Council's arboriculture officer, concludes that these trees are in poor structural condition and have a life expectancy of 10+ years. In other words, if left in place they would likely die or begin to significantly deteriorate within this time frame anyway.

The proposals involve replacing these trees with deciduous species. Officers accept that it will take time for these to reach maturity but on balance believe this is acceptable and to a degree inevitable. A planning condition can be used to require a tree planting plan so that the exact location, age and species of trees can be agreed. Officers understand that replacement trees are likely to be around 2.5-3m tall.

Taking the above into account officers believe that the distance of the proposed road from the backs of houses and gardens along Newton Road and Old Woods Hill, along with proposed re-planting, is sufficient that the visual impact of the proposals is acceptable.

## **7. Neighbour amenity**

Policy DE3 of the Local Plan states that development proposals should be designed to ensure an acceptable level of amenity for future occupiers and should not unduly impact the amenity of neighbouring and surrounding uses. The policy states that this will be assessed using a criteria that includes the impact of noise, nuisance, visual intrusion, overlooking and privacy, light and air pollution; satisfactory provision for off road parking, and nature of the use, specifically where this would be overbearing and impacts on existing living conditions and standards of accommodation of other uses.

Objections have been made that the proposed new road would lead to increased air pollution (exhaust fumes), noise (staff and vehicles), light (car/bus headlights and any

parking/security lighting) pollution as well as smells and vibration. And that these impacts would be exacerbated due to the site's operating hours (04:00 am to 01:00 am) and as the road would bring vehicles closer to houses along Newton Road and Old Woods Hill. Concerns have been made that the occupants of these houses will be unable to enjoy their back gardens and that their sleep might be disrupted. Objections have also been made that the proposals for a new road in this position have previously been made by the applicant and rejected on neighbour amenity grounds.

#### Previous applications

Planning applications P/1996/1409 (Extension of Parking Area) and P/1996/1410 (Erection of Extension to Existing Workshop) were refused by the Council individually and then dismissed at appeal under a single appeal decision in 1997.

P/1996/1409 involved the construction of a new road from the existing hammerhead at the end of Regent Close along the backs of the houses on Newton Road and Old Woods Hill along with 81 staff car parking spaces. 24 of these spaces would have been positioned along the boundary with houses on Newton Road and Old Woods Hill. The existing woodland area between these houses and the Stagecoach depot would have been completely removed with only a few trees retained between parking spaces.

The reason for refusal was:

*"This proposals would be detrimental to the residential amenity of neighbouring occupiers by reason of noise, smell, fumes, and general disturbance and to the character and appearance of a site of landscape significance by reason of loss of trees the subject of a tree preservation order and associated works on construction"*

P/1996/1410 was for a workshop extension in the middle of the depot site. The reason for refusal was:

*"Taken in conjunction with refused application 96/1409, the proposals is deficient in car parking ... would severely impair the circulation of vehicles around the site, would lead to the parking of vehicles on the highway, would create conditions of danger to all road users and interference with the free flow of traffic".*

The appeal decision (for both refused applications) said:

*"... (4) The expansion [i.e the proposed parking] would be into the undeveloped area of shrubs and trees, and adjacent to the houses. A new road would be built through this part of the site and as well as being the access to the parking area it would become the way into the rear of the site for buses. .... (8) The residents already complain of noise and disturbance from the bus depot, including late night activities. Whilst the trees probably provide little protection from noise, the area undoubtedly provides a valuable buffer between the industrial site and the houses, as evidenced in my view that the trees are intended to be preserved. (9) Not only would most of the area be built over for parking .. and therefore largely lost as a buffer of greenery, but the activities would be much closer to the houses than now. There would be ways of mitigating the impact but I consider the residents would inevitably suffer a significant loss of amenity due to increased noise and disturbance. The coming and going of cars, particularly late at night, early in the morning and at weekends, would be disturbing in itself. Were this to be coupled with the use of the roadway for bus access, the impact would be far greater. In my opinion ... the effect of the proposal on residential amenity would be*

*unacceptable. ... (12) Unless Stagecoach can find other ways of solving the problem of staff parking, the conclusion must be that the activities have outgrown the site”.*

Officers have carefully considered the Council’s reasons for refusal for the applications and the Inspector’s findings. However, officers do not believe that these provide a precedent that can be relied on to justify a decision of refusal in this case.

The road subject to the 1997 proposals would have been significantly closer to the backs of most of the houses along Old Woods Hill than the current proposed road would be, at around 8-11m. In addition, all of the space between the road and the backs of the houses would have been used for staff parking in the 1997 proposals. And all of the woodland between the backs of the houses and the depot would have been removed with only a few token trees being retained between parking areas.

The current proposals are substantially different to those considered in 1997. The proposed road would be further away from the houses on Newton Road and Old Woods Hill. The existing woodland area (including that subject to tree preservation order) would be left largely in-tact (0.07ha of woodland would be removed from an existing 0.39ha) and new trees would be planted in mitigation for those that would be lost. No parking is proposed next to the backs of the houses along Newton Road and Old Woods Hill. Nine staff car parking spaces would be provided to be accessed off of that part of Regent Close running into the site and a substantial distance away from the houses. Another nine spaces would be provided along the side of the new proposed road furthest away from the houses.

It should also be noted that, despite the Inspector’s reservations about the long-term sustainability of the depot site (at a time when the Inspector notes that double decker busses were only just being introduced), Stagecoach has operated at the site successfully for more than two decades since the appeal was dismissed, clearly demonstrating that Stagecoach has not outgrown the site.

It should also be remembered that the 1997 refusals pre-date the adoption of the Torbay Local Plan and Torquay Neighbourhood Plan and that Torbay’s strategic infrastructure needs have altered significantly in the interim.

Taking the above into account, officers consider that the current proposals must be considered on their own merits and not with reference to conclusions reached about a significantly different scheme.

#### Noise

A Noise Assessment has been submitted with the application. This document has been reviewed by Torbay Council’s Community Safety Team and has been found to be acceptable. It concludes that:

*“Without mitigation, the change in noise levels between the existing and proposed scenarios are predicted to increase of 3.5dB at the closet sensitive receptors [i.e. the houses along Newton Road, Old Woods Hill and Barton Road] during the night-time scenarios. As such, mitigation is to be provided in the form of a 2.5m barrier along part of the southern edge of new access road. Inclusive of mitigation, a change in noise level assessment has been undertaken which shows that noise levels are expected to change by up to a maximum of +1.9 dB with the new access route, which falls within the No Observed Adverse Effect Level. Overall, and when assessed on a worst-case basis, noise from the proposed redevelopment*

*is predicted to have a low impact and noise levels fall within the Lowest Observed Adverse Effect Level”.*

The 2.5m high noise fence identified would run behind nos. 4, 6, 8, 10, 12 and 14 Old Woods Hill.

Officers consider that this provides acceptable mitigation for increased noise nuisance associated with the proposals.

It should also be noted that as the proposed new road would operate as a circle, with buses entering the site via the existing entrance and leaving via the proposed new road, the proposals would be unlikely to lead to any additional bus movements along it late at night (i.e. as buses would be returning to the depot to park up using the existing entrance).

It should also be noted that both Torbay’s Strategic Transport team and Stagecoach Devon have said that the proposals will support the electrification of the bus fleet in Torbay. Clearly, once the bus fleet has been electrified noise levels associated with bus movements are likely to fall significantly. Likewise, Stagecoach Devon has identified that the proposed road, by allowing a smooth in/out arrangement will significantly reduce engine revving and beeping associated with the reversing that is currently required to maneuver busses on site.

Officers agree with that this is likely to be the case and therefore consider that the proposals are therefore acceptable in relation to noise.

#### Light

The proposals would include lighting for the proposed access road.

A Light Spillage Assessment has been submitted with the application. This has been reviewed by Torbay Council’s Community Safety Team and has been found to be acceptable. It concludes that:

*“the risk of the proposed scheme resulting in exceedances of either the ILP pre-curfew or post-curfew obtrusive light limitations at sensitive local residential receptors will be low. The assessment has concluded that, with the implementation of the specified lighting design, the sky glow levels associated with the development will have minimal impact on surrounding residential receptors.”*

The proposed scheme referred to in the preceding paragraph refers to an indicative lighting design which does not at present form part of the proposals. However, this assessment clearly demonstrates that lighting for the proposed road can be provided without causing nuisance to neighbours. A condition can be used to ensure that the proposed road is not brought into use until a lighting design has been submitted to the Council and agreed in writing. It should be noted in the respect that the company that conducted out the Light Spillage Assessment has confirmed that the assessment was carried out on the basis that *“the luminaires on the proposed road are facing away from the residential receptors which minimises light spillage”*. It should also be noted that one of the recommendations in the Ecological Impact Assessment submitted with the application is that *“All additional lighting along the new access road should be kept to a minimum and must not be directed at the retained trees or woodland edges”*. This recommendation, which can be secured via condition in the same manner as the lighting design, is aimed at minimising disturbance to bats but will necessarily also minimise any disturbance to neighbours.

Officers have considered whether headlights of vehicles (buses and cars) using the proposed road would be likely to cause nuisance to neighbours but have concluded this is unlikely. The company that carried out the Light Spillage Assessment (Tetra Tech) has

confirmed that a headlight assessment was not carried out as “*as the extensive vegetation as well as the fences from residential gardens will shield light from the proposed access road*”. Officers also note that the acoustic fence, which would be positioned adjacent to the road, would block headlights along much of the road’s length.

Officers consider that proposals are therefore acceptable in relation to potential light spillage.

#### Air Quality, Smell, Vibration

Officers consider that the proposals are unlikely to lead to any significant new deterioration in air quality, or any significant increase in smells or vibration. No need for additional assessment has been identified by the Council’s Community Safety Team.

It should be noted that the site is not in an Air Quality Management Area. As observed above, unlike the previous proposals refused in 1997 the current proposals do not involve the wholesale removal of the existing woodland area and do not involve a mass of parking spaces next to the back gardens of houses along Newton Road and Old Woods Hill. The existing woodland area would remain largely in-tact and would continue to provide a buffer between the proposed road and these houses. Only 0.07ha of woodland would be removed out of a total area of 0.39ha. It should also be noted that the proposed road is for bus traffic associated with the depot and some staff parking along the side of this road only. The proposals do not involve any expansion of the Stagecoach site i.e. the proposals are not associated with any development within the site, increase in staff numbers or bus movements. Traffic movements along the road would, in consequence, be likely to be a very small fraction of the traffic movements that use the majority of adopted roads in Torbay, which are themselves in many cases far closer to houses than the road subject to the current proposals would be.

It should also be noted that both Torbay’s Strategic Transport team and Stagecoach Devon have said that the proposals will support the electrification of the bus fleet in Torbay. Clearly, once the bus fleet has been electrified then air pollution associated with vehicle emissions and smells are both likely to fall significantly.

Officers therefore consider that the proposals are acceptable in relation to air quality, smell and vibration.

#### Summary

Officers consider that the proposals are acceptable in relation not Policy DE3.

### **8. Access and parking**

Policy TA1 of the Local Plan (Transport and accessibility) states that the Council is seeking to develop a sustainable and high quality transportation system which makes sustainable travel the first choice when travelling, thereby meeting the accessibility needs of everyone and promoting Torbay’s economic competitiveness, whilst reducing the need to travel and its environmental impact, with an emphasis on public transport provision. Policy TA2 of the Local Plan (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. And that Schemes which require new access to/from the highway network will be supported where they provide vehicular and pedestrian access to a safe standard, including a satisfactory standard of visibility, maintain an acceptable network capacity or provide suitable mitigation for any negative impact on capacity, enhance public transport and are essential to access the schemes and can demonstrate significant environmental, safety or economic benefits. Policy TA3 states that the Council will require appropriate provision of car parking spaces in all new development.

The applicant has provided swept path information demonstrating that the proposed car parking spaces would be usable and that a fire tender could access the site.

The proposed road would remain private and would not be adopted by the Council but would nevertheless be built to adoptable standards.

The proposals include 18 staff parking spaces within the site to compensate for existing parking at the end of Regent Close that would be lost.

The applicant has agreed to make a payment of £5,000 for a Traffic Regulation Order that would see double yellow lines painted on that part of Regent Close outside the site entrance, extending to outside of Boyce Court on Regent Close to prevent vehicles being parked and obstructing buses entering or leaving the site.

Torbay Highways have reviewed the proposals and have responded with no objections subject to conditions for a car parking management plan, to secure the afore mentioned financial contribution and to clarify what type of kerbs would edge the road inside the site.

Officers therefore consider that the proposals are acceptable in relation to Policies TA1, TA2 and TA3.

## **9. Climate change**

Policy SS14 of the Local Plan (Low carbon development and adaption to climate change) states that, commensurate with their scale and nature, development proposals will be required to minimise carbon emissions and the use of natural resources expected to arise during the lifetime of the development.

The consultee response from Torbay's Strategic Planning team states that "*This site is very important in the operation of the Torbay bus network. The site does however require more space to support the vehicles needed for the local bus network and supporting the implementation of zero emission buses with charging facilities in the near future. The Council has been working with Stagecoach on proposals to bring forward zero emission buses based at this depot and we are keen to support this happening, having submitted a bid for funding to Government and including proposals in our Bus Service Improvement Plan. The site is well located to support this infrastructure with appropriate power supplies nearby and the business case relies on this provision being nearby.*" Further that the proposals would assist in "*future proofing for a contribution to a carbon neutral Torbay*". The representation I support of the proposals made by Stagecoach Devon states that "*The application is also designed to facilitate future electrification of the Torbay bus fleet, which may not be possible should this application be unsuccessful*" and that "*the plans will facilitate a move to a more environmentally sustainable means of powering the bus fleet, which will be good for the whole of Torbay*".

Officers therefore consider that the proposals are in accordance with Policy SS14.

## **10. Ecology**

Policy NC1 of the Local Plan (Biodiversity and geodiversity) states that The Local Plan seeks to conserve and enhance Torbay's biodiversity through the protection and improvement of the terrestrial and marine environments and fauna and flora, commensurate to their importance and that development should not result in the loss or deterioration of irreplaceable habitats or wildlife corridors.

The application has been accompanied by an Ecological Impact Assessment. This report identifies that the proposals would result in the loss of 0.07 ha of woodland (from a total area of 0.32ha) and 0.01 ha of amenity grassland (from a total of 01.ha). The report identified that

the site has no more than local importance for habitats/flora and protected species - bats, birds and reptiles. A number of mitigation and compensatory measures are identified including planting approximately 14 new trees along the western and northern boundary of the site, keeping woodland edges and trees dark to maintain a corridor for bats and enhancing the existing woodland through removal of the existing leylandii treeline (allowing light levels within the woodland to increase and ground flora to prosper) and non-native cherry laurel. The report concludes that providing these measures are carried out the proposals will result in a biodiversity net gain. The report identifies that no further survey work is required.

Some objections have been made about the quality of the report and have raised concerns that it may not be independent since the applicant paid for it. Officers are satisfied that the company that carried out the report (ge consulting) is reputable and that staff are appropriately qualified and experienced. It is usual for applicants to pay for any reports required by the Local Planning Authority (as this one was). The report has been reviewed by Devon County Council's Ecologist who has confirmed that the *"site offers limited ecological value ... the Ecology Report ... is adequate and acceptable ... [and] as long as the recommendations in the report are conditioned it is unlikely that the scheme will have major impacts upon biodiversity"*.

Officers therefore consider that the proposals are in accordance with Policy NC1.

## **11. Arboriculture**

Policy C4 of the Local Plan sets out that development will not be permitted when it would seriously harm, either directly or indirectly, protected or veteran trees, hedgerows, ancient woodlands or other natural features of significant landscape, historic or nature conservation value. Where the loss of, or impact on trees, hedgerows or landscape features is considered acceptable as part of development, replacement and other mitigation measures will be required.

The application has been accompanied by an Arboriculture Impact Assessment (also an Arboriculture Method Statement and Arboriculture Constraints and Opportunities Plan). The report identifies that *"The scheme has been designed to retain the majority of trees on Site. The trees which are to be removed are considered to be of low arboricultural and amenity value; their loss will be compensated by a replacement tree strategy which will ensure a net gain in tree cover for the Site in the long-term"*.

It shows that two Category B arboricultural elements (life expectancy of 20+ years) and 2 Category C arboricultural elements (life expectancy of 10+years) would be removed. These elements are mapped at Appendix 1

G15(B) identifies a patch of woodland that the proposed road would run through at the end of the top yard in the north east of the site. W4(B) identifies a patch of woodland that the proposed road would run through. G5(C) contains a row of Leylandii trees running from the existing hammerhead of Regent Close to the south east. T14(C) identifies a single tree to be removed.

None of the large deciduous trees closest to the backs of the houses along Newton Road or Old Woods Hill would be removed. The deciduous trees that would be affected are furthest away from these houses. It should be noted that the Leylandii trees forming arboricultural element G5(C) were confirmed by the Local Planning Authority as **not** being within the Tree Preservation Order area that covers part of the site in 2020 (AT/2020/0021). As such planning permission is **not** needed to fell them and the applicant is free to do this whether or not planning permission for the current proposals is granted. The Arboricultural Impact

Assessment has identified these as having a suitable life expectancy of 10+ years and records that they are in poor structural condition.

There are two individual trees covered by a Tree Preservation Order (TPO). There is also a small area covered by a TPO that contains a small number of trees. None of these trees would be removed. One of the trees covered by an individual TPO would be pruned to allow construction.

The proposals identify that 14 new trees would be planted in mitigation for those that would be lost to the west of the site (i.e. to replace the Leylandii that will be removed) and to the north of the site. A planning condition can be used to secure a tree planting plan so that exact locations for these trees, as well as their species and age can be agreed. It is likely that replacement trees would be in the region of 3m tall.

The arboriculture reports submitted have been reviewed by the Councils arboriculture officer who has visited the site and advised that the proposals are sustainable in arboriculture terms and that the proposed tree removals are justified in relation to their condition or proposed landscaping/new tree planting mitigation.

Officers have carefully considered the objections made in relation to trees, including the proposed loss of trees, the time it will take for new replacement trees to grow and the trees species to be planted as mitigation but consider that the proposals are acceptable. Officers have considered concerns have that arboriculture reports may not be independent since the applicant paid for them. Again, Officers are satisfied that the company that carried out the report (ge consulting) is reputable and that staff are appropriately qualified and experienced. It is usual for applicants to pay for any reports required by the Local Planning Authority (as this one was).

Officers therefore consider that the proposals are in accordance with Policy C4.

## **12. Flood risk**

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

The site is located within the Critical Drainage Area and is accompanied by a Flood Risk Assessment.

The applicant must demonstrate that they have investigated a sustainable drainage system and provide details of why this is not feasible for the development site. As Torbay is a Critical Drainage Area any surface water discharge rate from the site to the combined sewer must be limited to greenfield run off rate for the 1 in 10 year storm event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. It should be noted that where the Greenfield run-off rate for the site is below 1.5l/sec, a discharge rate of 1.5l/sec will be accepted. The applicant must submit their design to demonstrate that their surface water drainage design will not result in any increased risk of flooding to properties or land adjacent to their development for the critical 1 in 100 year storm event plus a 30% allowance for climate change. If the application was minded for approval, a planning condition would be included to ensure that the most sustainable form of drainage was explored before opting for the means stated on the submitted flood risk assessment.

The proposal is therefore considered to be in accordance with Policy ER1 of the Local Plan.

### **13. Ground stability**

Policy ER4 of the Local Plan states that appropriate investigations will need to be agreed with the Council where identified or suspected ground instability presents a risk to public health and safety.

An objection has been made that the proposals involve a risk of subsidence to houses along Old Woods Hill. No information has been provided in support of this assertion.

Officers are not aware of any local identified or suspected ground instability issues which present a risk to public health and safety.

The proposals are therefore considered to be in accordance with Policy ER4

### **Local Finance Considerations**

#### **S106:**

The applicant has agreed to make a contribution of £5,000 for a Traffic Regulation Order.

#### **CIL:**

The CIL liability for this development is Nil.

#### **EIA/HRA:**

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

#### **HRA:**

Not applicable.

### **Planning Balance**

This report gives consideration to the issues raised in the objections received and concludes that these are not of sufficient weight to warrant the refusal of the application and as such it is concluded that the planning balance is in favour of supporting this proposal.

### **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 and would not result in unacceptable harm to visual amenity, neighbour amenity, access and parking, ecology or arboriculture. The proposed development is therefore considered acceptable, having regard to the Development Plan, and all other material considerations.

### **Officer Recommendation**

That planning permission is granted, subject to the conditions detailed below and the signing of a s106 agreement or unilateral undertaking for the delivery of double yellow lines outside the site entrance. The final drafting of conditions and addressing any further material considerations that may come to light to be delegated to the Assistant Director of Planning, Housing and Climate Emergency.

### **Conditions**

1. The acoustic barrier shown on the approved plans shall be installed prior to the use of the road hereby approved and thereafter retained permanently.

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

2. A detailed lighting plan for the road hereby approved shall be submitted to and agreed in writing with the Local Planning Authority prior to the road being brought into use. The agreed lighting shall be installed before the first use of the road and thereafter permanently retained.

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

3. Before first use of the road hereby approved details of kerbs to be used to edge the road shall be submitted to and agreed in writing with the Local Planning Authority. Development shall take place in accordance with the approved details and shall be retained as such for the lifetime of the development.

Reason: In the interests of safety in accordance with Policy TA2 of the Torbay Local Plan 2012-2030.

4. Before the first use of the road hereby approved the parking areas shown on the approved plan(s) shall be completed and thereafter permanently retained for parking of vehicles.

Reason: In the interests of the safety and convenience of users of the highway in accordance with Policy TA3 of the Torbay Local Plan 2012-2030.

5. Prior to the road hereby approved being brought into use a car parking management plan shall be submitted to and agreed in writing with the Local Planning Authority. The plan shall be implemented for the lifetime of the development.

Reason: In the interests of the safety and convenience of users of the highway in accordance with Policy TA3 of the Torbay Local Plan 2012 -2030.

6. The development shall be carried out in accordance with the recommendations set out in the Ecological Impact Assessment submitted with the application. All identified mitigation measures shall be delivered prior to the first or use of the road hereby approved.

Reason: To prevent harm to protected species and in the interest of biodiversity in accordance with policy NC1 of the New Torbay Local Plan 2012-2030.

7. A tree planting plan shall be agreed in writing with the Local Planning Authority. The trees identified in the agreed plan shall be planted prior to the first use of the road hereby approved or before the end of the first planting season following completion of the road. Any trees that die, are removed or are diseased within five years of the date they are planted shall be replaced.

Reason: In the interests of arboriculture, visual amenity and residential amenity in accordance with policies C4, DE1 and DE3 of the Local Plan 2012-2030.

8. All works associated with the construction of the road hereby approved shall be carried out in accordance with the submitted Arboriculture Method Statement,

Reason: In the interests of arboriculture in accordance with policy C4 of the Local Plan 2012-2030.

9. Notwithstanding the submitted flood risk assessment, surface water drainage shall be provided by means of soakaways within the site which shall comply with the requirements of BRE Digest 365 for the critical 1 in 100 year storm event plus 40% for climate change. If demonstrated that the ground conditions are not suitable for soakaways or will result in an increased risk of flooding to surrounding buildings, roads and land, prior to commencement of the development, details of an alternative means of surface water drainage shall be submitted to and approved in writing by the Local Planning Authority. The details of the alternative means of surface water drainage shall include evidence of how surface water will be dealt with in order not to increase the risk of flooding to surrounding buildings, roads and land. As Torbay is a Critical Drainage Area the submitted means of surface water drainage shall ensure that all off site surface water discharges from the development must be limited to the "Greenfield" run off rate for the 1 in 10 year rainfall event with attenuation designed so as there is no risk of flooding to properties or increased risk of flooding to adjacent land for the critical 1 in 100 year storm event plus a 30% allowance for climate change. On site all surface water shall be safely managed up to the "1 in 100 year critical rainfall event plus 30% allowance for climate change" conditions. This will require additional water storage areas to be created thereby contributing to a reduction in flooding downstream. The development shall not be utilised until the approved surface water drainage system has been completed as approved and it shall be continually maintained thereafter.

Reason: In the interests to adapting to climate change and managing flood risk, and in order to accord with saved Policies ER1 and ER2 of the Torbay Local Plan 2012-2030 and the guidance contained in the NPPF. These details are required pre-commencement as specified as Torbay has been designated as a Critical Drainage Area and to ensure that a surface water drainage system is designed appropriately in light of this designation.

### **Development Plan Relevant Policies**

#### Torbay Local Plan

- SS1 Growth Strategy for a prosperous Torbay
- SS4 The economy and employment
- SS5 Employment space
- SS6 Strategic transport improvements
- SS10 Conservation and the historic environment

SS14 Low carbon development and adaption to climate change  
TA1 Transport and accessibility  
TA2 Development access  
TA3 Parking requirements  
C4 Trees, hedgerows and natural landscape features  
NC1 Biodiversity and geodiversity  
DE1 Design  
DE3 Development amenity  
ER1 Flood risk  
ER4 Ground stability

Torquay Neighbourhood Plan  
TH8 Established architecture